Reg. No. M. 1175.

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

(EXTRAORDINARY)

BANGALORE, TUESDAY, SEPTEMBER 5, 1950

NOTIFICATION.

Bangalore dated 5th September 1950.

The following notices are issued under Rule 5* of the "Representation of the People (Preparation of Electoral Rolls) Rules, 1950" and persons referred to therein are invited to fill in Form II or Form IV as the case may be and to arrange the same to be forwarded to the undersigned within the date and in the manner prescribed hereunder.

J. B. MALLARADHYA,
Commissioner of Economic Development and Planning and Chief Electoral Officer for Mysore State.

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* RULE 5.—*Notice inviting statements under Section 20 of Act.*—(1) In the case of an electoral roll first prepared under the Act, the Chief Electoral Officer for the State shall, as soon as may be after the commencement of these rules, and in the case of every electoral roll subsequently prepared under the Act, the Chief Electoral Officer for the State shall, before the preparation of such roll is taken in hand, cause a notice in Form I to be published inviting every person who—

(i) is a member of the Armed Forces of the Union, or

(ii) is holding any such office as is referred to in sub-section (4) of Section 20 of the Act, or

(iii) is employed under the Government of India in a post outside India, and desires to be registered in the electoral roll for the constituency in that State in which, but for his service in the Armed Forces or but for the holding of any such office or employment, as the case may be, he would have been ordinarily resident during the qualifying period or on the qualifying date, to submit the statement referred to in sub-section (5) of that section to the Electoral Registration Officer of the said constituency within the time to be specified in that behalf in the notice. Every such statement shall be in Form II and shall be verified in the manner specified in the Form.

(2) As soon as may be after the commencement of these rules, the Chief Electoral Officer shall, for the purpose of the preparation of the electoral rolls to be first prepared under the Act, cause a notice in Form III to be published inviting every person referred to in sub-section (7) of section 20 of the Act who desires to be registered in the electoral roll for any constituency other than the constituency in which he was resident on the twenty-fifth day of July 1949, to submit to the Electoral Registration Officer of the constituency in the State in which he desires to be registered within the time to be specified in that behalf in the notice a statement in Form IV, specifying the constituency in the State in which he so desires to be registered.

(3) Every notice issued under sub-rule (1) or sub-rule (2) shall be published in such manner and at such place as the Election Commission may direct, and the time to be specified in the notice within which the statement is to be submitted shall not be less than twenty-one days from the publication of the notice.

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OFFICE OF THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND PLANNING AND CHIEF ELECTORAL OFFICER OF MYSORE, OLD RESIDENCY COURT BUILDINGS, CIVIL STATION, BANGALORE.

FORM I

Notice.

Under Rule 5 of the Representation of the People (Preparation of Electoral Rolls) Rules, 1950.

For the purpose of preparation of the electoral rolls for the Parliamentary constituencies, the Assembly constituencies and the Council constituencies in the State of Mysore every person who is a member of the Armed Forces of the Union or is holding any office in India declared by the President to be an office to which the provisions of sub-section (4) of section 20 of the Representation of the People Act, 1950 (XLIII of 1950), apply or is employed under the Government of India in a post outside India and who desires to be registered in the electoral roll of a constituency in Mysore State in view of the provisions contained in sub-section (3) or sub-section (4) of the said section, or whose wife desires to be registered in the electoral roll of the said constituency in view of the provisions contained in sub-section (6) of the said section, is invited to submit a statement in Form II through the appropriate officer so as to reach the Chief Electoral Officer of Mysore not later than the 30th day of September 1950.

J. B. MALLARADHYA,
Commissioner of Economic Development and Planning and Chief Electoral Officer for Mysore State.

Bangalore (Place),
Dated 5th September 1950.

NOTE.—Copies of Form II will be supplied free by the Chief Electoral Officer on application.

The Representation of the People Act, 1950.

Section 20.—(3) A member of the Armed Forces of the Union while living in any barrack, building or place belonging to, or provided by, the Government shall not be deemed to be ordinarily resident in the constituency within which such barrack, building or place is situate, but shall be deemed to be ordinarily resident during any period or on any date in the constituency in which, but for his service in the Armed Forces, he would have been ordinarily resident during that period or on that date.

(4) Any person holding any office in India declared by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, or any person who is employed under the Government of India in a post outside India, shall be deemed to be ordinarily resident during any period or on any date in the constituency in which, but for the holding of any such office or employment, he would have been ordinarily resident during that period or on that date.

(6) The wife of any such person as is referred to in sub-section (3) or sub-section (4) shall, if she be ordinarily residing with such person during any period, be deemed to be ordinarily resident during that period in the constituency specified by such person under sub-section (5).

FORM II.

STATEMENT BY A MEMBER OF THE ARMED FORCES OR BY AN OFFICER HOLDING AN OFFICE IN INDIA DECLARED BY THE PRESIDENT TO BE AN OFFICE THE HOLDER OF WHICH WILL BE DEEMED TO BE ORDINARILY RESIDENT IN THE CONSTITUENCY WHERE, BUT FOR THE HOLDING OF SUCH OFFICE, HE WOULD HAVE BEEN ORDINARILY RESIDENT, OR BY A PERSON EMPLOYED UNDER THE GOVERNMENT OF INDIA IN A POST OUTSIDE INDIA.

(Rules 5 and 11).

I*————————son of/wife of/daughter of————————

serving in

————————†holding the office of————————

employed in

declare that, but for my service in the Armed Forces/holding such office/holding such employment, I would ordinarily have resided at No.————Street————————Ward No.————Town————in village/Ward————of‡————District————of the State————((during §.————within the qualifying period, that is, from the 1st day of————19—to the————day of ————19—. I also declare that I am a citizen of India, that I was not less than 21 years of age on the qualifying date, that is, the 1st day of March 19 [and that my wife**————————, who ordinarily resided with me during————within the aforesaid qualifying period is also a citizen of India and was also not less than 21 years of age on the qualifying date, the said 1st day of March 19])) [[on the qualifying date that is, the 1st day of April, 19—. I also declare that I am a citizen of India.]]

The above particulars are true and correct in all respects.

Signature in full.

.....(Place),

Dated.....

((Not for council constituencies.))

[Strike off if not necessary.]

[[For Constituencies only.]]

*Here insert full name.

†Here insert the name of Regiment/office/post.

‡Here insert Taluk, Union, Municipality, Zail, Thana or any other local area.

§Here enter any period of 180 days within the qualifying period.

**Here insert full name.

3

VERIFICATION BY THE OFFICER-IN-CHARGE OF THE REGIMENT OR BY THE HEAD OF THE OFFICE OR BY A DIPLOMATIC OR CONSULAR REPRESENTATIVE OF INDIA.

I have verified the statement made above and found the same to be correct.

I have satisfied myself that the declarant is a citizen of India under article ——— of the Constitution [and his wife is a citizen of India under article ——— of the Constitution. She also ordinarily resided with the declarant during the period above-mentioned].

Signature and official designation of Officer-in-Charge of the Regiment/Head of the Office/Diplomatic or Consular Representative.

.....(Place),

Date.....

[ ] Strike off if not necessary.

NOTE (1).—This statement should be made in duplicate in the case of a member of the Armed Forces of the Union. One copy should be retained in the Regimental Headquarters or the office of the Verifying Officer and the other should be forwarded by the Verifying Officer to the Chief Electoral Officer of the State along with the list of persons eligible to be enrolled in all constituencies within that State.

NOTE (2).—Any person, who makes a false declaration, or gives information which he knows or believes to be false or does not believe to be true is liable to be punished under Section 199 and/or 182, I.P.C.

The Representation of the People Act, 1950.

Section 21.—Meaning of "qualifying date" and "qualifying period".—For the purpose of this Part, the qualifying date and the qualifying period,—

(*a*) in the case of electoral rolls first prepared under this Act shall be the 1st day of March, 1950, and the period beginning on the 1st day of April, 1947, and ending on the 31st day of December, 1949, respectively; and

(*b*) in the case of every electoral roll subsequently prepared under this Act, shall be the 1st day of March of the year in which it is prepared, and the year immediately preceding that year, respectively.

FORM III 6

NOTICE

[Under Rule 5 of the Representation of the People (Preparation of Electoral Rolls) Rules, 1950.]

For the purpose of preparation of the electoral rolls for the Parliamentary constituencies, Assembly constituencies and Council constituencies, in the State of Mysore, every person who is a citizen of India and has migrated from the territory of Pakistan into the territory of India before the 25th day of July 1949, on account of disturbances or fear of disturbances in his former place of residence and who desires to be registered in the electoral roll for a constituency in Mysore State other than the constituency in which he was resident on the said date in accordance with the provision contained in sub-section (7) of section 2 of the Representation of the People Act, 1950 (XLIII of 1950), is invited to submit a statement in Form IV to the Chief Electoral Officer of Mysore so as to reach him not later than the 30th day of September 1950.

Bangalore, (Place),
Dated 5th September 1950

J. B. MALLARADHYA,
Commissioner of Economic Development and Planning and Chief Electoral Officer of Mysore State.

NOTE.—Copies of Form IV will be supplied free by the Chief Electoral Officer, Mysore State on application.

The Representation of the People Act, 1950:

Section 20.—(7) For the purpose of the electoral rolls first prepared under this Act, a person who is a citizen of India and has migrated from the territory of Pakistan into the territory of India before the 25th day of July, 1949, on account of disturbances or fear of disturbances in his former place of residence shall be deemed to have been ordinarily resident during any period or on any date in the constituency in which he was resident on the said day or, if any other constituency is specified by him in this behalf in the prescribed form and manner, in that other constituency.

FORM IV. 7

STATEMENT BY A PERSON WHO IS A CITIZEN OF INDIA AND HAS MIGRATED FROM THE TERRITORY OF PAKISTAN INTO THE TERRITORY OF INDIA BEFORE THE 25TH JULY 1949, ON ACCOUNT OF DISTURBANCES OR FEAR OF DISTURBANCES IN HIS FORMER PLACE OF RESIDENCE, SPECIFYING THE CONSTITUENCY IN WHICH HE SHOULD BE DEEMED TO BE ORDINARILY RESIDENT FOR THE PURPOSE OF REGISTRATION IN THE ELECTORAL ROLL FOR THAT CONSTITUENCY.

(*Rules 5 and 11*).

I* ..... son of / wife of / daughter of..... declare that I am a citizen of India under clause (*a*) and sub-clause (i) / sub-clause (ii) of clause (*b*) of article 6 of the Constitution, ((that I was not less than 21 years of age on the 1st day of March, 1950)) and that I have migrated from the territory of Pakistan into the territory of India on ‡ ..... on account of disturbances or fear of disturbances in my former place of residence at ..... [I submit herewith original / certified copy of the citizenship certificate granted to me under sub-clause (ii) of clause (*b*) of article 6 of the Constitution.]

My name has not been included in the electoral roll for any Parliamentary constituency/ been included in the electoral roll for Parliamentary constituency/ Assembly constituency/Council constituency in the State of .... Assembly constituency/..... Council constituency in the State of.....

((I am at present residing in..... and I may be deemed to be ordinarily resident in † ..... in .....Parliamentary constituency/ ....Assembly constituency during the qualifying period, that is, from the 1st day of April 1947, to 31st day of December 1949, for the purpose of my registration in the electoral roll for that constituency.))

[(I am at present residing in .....and I may be deemed to be ordinarily resident in..... in ..... Council constituency on the qualifying date, that is, first day of April 1950, for the purpose of my registration in the electoral roll for that constituency.)]

[I have applied separately to the Electoral Registration Officer of..... Parliamentary constituency/.....Assembly constituency/..... Council constituency for the exclusion of my name from the electoral roll for that constituency.]

DECLARATION.

The above particulars are true and correct in all respects.

.....(Place),

Date..... *Signature in full*

((Not for Council constituencies.))
[(For Council constituencies only.)]
[Strike off if not necessary.]
* Here insert the full name.
‡ Here insert the date.
† Here insert name of place.

NOTE.—Any person who makes a false declaration or gives information which he knows or believes to be false, or does not believe to be true, is liable to be punished under Section 199 and/ or 182, I.P.C.

Articles 6 and 7 of the Constitution.

Rights of citizenship of certain persons who have migrated to India from Pakistan.

6. Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution, if—

(*a*) he or either of his parents or any of his grand parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(*b*) (i) in the case where such person has so migrated before the nineteenth day of July 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government:

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

Rights of citizenship of certain migrants to Pakistan.

7. Notwithstanding anything in articles 5 and 6, a person who has after the first day of March 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (*b*) of article 6 be deemed to have migrated to the territory of India after the nineteenth day of July 1948.

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Reg. No. M. 1175

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

(SUPPLEMENTAL)

BANGALORE, THURSDAY, SEPT. 7, 1950.

NOTIFICATION.

Dated Bangalore, the 6th September 1950.

It is hereby notified for the information and guidance of all Census Officers that THE CENSUS (AMENDMENT) ACT, 1950 has extended the operation of the Government of India Census Act (Act No. XXXVII of 1948) to the three States of Hyderabad, Mysore and Travancore—Cochin where it was not in force before, and that accordingly all action relating to the Census required under law for these States will have hereafter to be taken under the said Act XXXVII of 1948. The Mysore Census Act, 1949 (Act No. XXIII of 1949) under which action was being taken hitherto is repealed by Section 5 of the Census (Amendment) Act, 1950, with effect from 16th August 1950, the date on which the Amending Bill received the assent of the President. Notwithstanding the repeal, anything done or any action taken in the exercise of any power conferred by or under the Mysore Census Act, shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Indian Census Act, as if the Act were in force on the day on which such thing was done or action was taken.

The Census (Amendment) Act, 1950 and Act, No. XXXVII of 1948 (India Census Act) are published below as Annexures to this Notification.

J. B. MALLARADHYA,
Census Commissioner for Mysore.

ANNEXURE I.

THE CENSUS (AMENDMENT) ACT, 1950.

AN ACT TO AMEND THE CENSUS ACT, 1948.

1. *Short title.*—This Act may be called the Census (Amendment) Act, 1950.

2. *Amendment of Section 1, Act XXXVII of 1948.*—In sub-section (2) of section 1 of the Census Act, 1948 (hereinafter referred to as the said Act), for the words "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin", the words "except the State of Jammu and Kashmir" shall be substituted.

3. *Insertion of new Section 2 in Act XXXVII of* 1948.—After section 1 of the said Act, the following section shall be inserted, namely :—

"2. *Rule of construction respecting enactments not extending to Part B States.*—Any reference to the Indian Penal Code (Act XLV of 1860) or the Indian Evidence Act, 1872 (I of 1872), shall, in relation to a Part B State, be construed as a reference to the corresponding enactment in force in that State."

4. *Amendment of Section 14, Act XXXVII of* 1948.—In Section 14 of the said Act, after the words "Magistrate of the second class", the words "or in a Part B State, a Magistrate corresponding to a Magistrate of the second class" shall be inserted.

5. *Repeals and Savings.*—(1) If immediately before the commencement of this Act there is in force in the States of Hyderabad and Mysore any law which corresponds to the said Act, it is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the repealed law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the said Act, as if the said Act were in force on the day on which such thing was done or action was taken.

ANNEXURE II.

INDIA CENSUS ACT, 1948.

(*Published in the* Gazette of India *Extraordinary, Part IV, dated the 3rd September* 1948).

ACT No. XXXVII OF 1948.

An Act to provide for certain matters in connection with the taking of census.

WHEREAS it is expedient to provide for the taking of census in the Provinces and Acceding States of India or any part thereof whenever necessary or desirable and to provide for certain matters in connection with the taking of such census ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Census Act, 1948.

(2) It extends to all the Provinces of India and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects census.

2. *Interpretation.*—In this Act, all references to the Provinces of India shall be construed as including reference to the Acceding States to which this Act for the time being extends, and in relation to any such Acceding State, all references to the Provincial Government shall be construed as references to the Government of that Acceding State.

3. *Central Government to take census.*—The Central Government may, by notification in the official Gazette, declare its intention of taking a census in the whole or any part of the territories to which this Act extends, whenever it may consider it necessary or desirable so to do, and thereupon the census shall be taken.

4. *Appointment of census staff.*—(*1*) The Central Government may appoint a Census Commissioner to supervise the taking of the census throughout the area in which the census is intended to be taken, and Superintendents of Census Operations to supervise the taking of the census within the several Provinces.

(*2*) The Provincial Government may appoint persons as census-officers to take, or aid in, or supervise the taking of, the census within any specified local area and such persons, when so appointed, shall be bound to serve accordingly.

(*3*) A declaration in writing, signed by any authority authorised by the Provincial Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(*4*) The Provincial Government may delegate to such authority as it thinks fit the power of appointing census-officers conferred by sub-section (*2*).

5. *Status of census authorities as public servants.*—The Census Commissioner, all Superintendents of Census Operations and all census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

6. *Discharge of duties of census-officers in certain cases.*—(*1*) Where the District Magistrate, or such authority, as the Provincial Government may appoint in this behalf, by a written order so directs—

(*a*) every officer in command of any body of men belonging to the naval military or air forces or of any vessel of war, of India,

(*b*) every person (except a pilot or harbourmaster) having charge or control of a vessel,

(*c*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up or of any public, charitable, religious or educational institution,

(*d*) every keeper, secretary or manager of any *sarai*, hotel, boarding house, lodging-house, emigration depot or club,

(*e*) every manager or officer of a railway or any commercial or industrial establishment, and

(*f*) every occupant of immovable property wherein at the time of the taking of the census persons are living,

shall perform such of the duties of a census officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property or are employed under him as may be specified in the order.

(2) All the provisions of this Act relating to census-officers shall apply, so far as may be, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which under this section he is directed to perform shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (XLV of 1860).

7. *Power to call upon certain persons to give assistance.*—The District Magistrate, or such authority as the Provincial Government may appoint in this

behalf for any local area, may, by written order which shall have effect throughout the extent of his district or of such local area, as the case may be, call upon—

(*a*) all owners and occupiers of land, tenure-holders, and farmers and assignees of land revenue, or their agents,

(*b*) all members of the district, municipal, *panchayat* and other local authorities and officers and servants of such authorities, and

(*c*) all officers and members of staff of any factory, firm or establishment, to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure-holders, farmers and assignees, or in the premises of factories, firms and other establishments, or within the areas for which such local authorities are established, as the case may be, and the persons to whom an order under this section is directed shall be bound to obey it and shall, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

8. *Asking of questions and obligation to answer.*—(*1*) A census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Provincial Government and published in the official Gazette, he may be directed to ask.

(*2*) Every person of whom any question is asked under sub-section (1) shall be legally bound to answer such question to the best of his knowledge or belief :

Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

9. *Occupier to permit access and affixing of numbers.*—Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census and as, having regard to the customs of the country, may be reasonable and shall allow them to paint on, or affix to, the place such letters, marks or numbers as may be necessary for the purposes of the census.

10. *Occupier or manager to fill up schedule.*—(*1*) Subject to such orders as the Provincial Government may issue in this behalf, a census-officer may, within the local area for which he is appointed, leave or cause to be left a schedule at any dwelling-house or with the manager or any officer of any commercial or industrial establishment, for the purpose of its being filled up by the occupier of such house or of any specified part thereof or by such manager or officer with such particulars as the Provincial Government may direct regarding the inmates of such house or part thereof, or the persons employed under such manager or officer as the case may be, at the time of the taking of the census.

(*2*) When such schedule has been so left, the said occupier, manager or officer, as the case may be, shall fill it up or cause it to be filled up to the best of his knowledge or belief so far as regards the inmates of such house or part thereof or the persons employed under him, as the case may be, at the time aforesaid, and shall sign his name thereto and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as the census-officer may direct.

11. *Penalties*—

(1) (*a*) any census-officer or any person lawfully required to give assistance towards the taking of a census who refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty or in obeying any such order, or

(*b*) any census-officer who intentionally puts any offensive or improper question or knowingly makes any false return or, without the previous sanction of the Central Government or the Provincial Government, discloses any information which he has received by means of, or for the purposes of a census return, or

(*c*) any sorter, compiler or other member of the census staff who removes, secretes, damages or destroys any census document or deals with any census document in a manner likely to falsify or impair the tabulators of census results, or

(*d*) any person who intentionally gives a false answer to, or refuses to answer to the best of his knowledge or belief, any question asked of him by a census-officer which he is legally bound by section 8 to answer, or

(*e*) any person occupying any house, enclosure, vessel or other place who refuses to allow a census-officer such reasonable access thereto as he is required by section 9 to allow, or

(*f*) any person who, removes, obliterates alters, or damages any letters, marks or numbers which have been painted or affixed for the purposes of the census, or

(*g*) any person who, having been required under section 10 to fill up a schedule, knowingly and without sufficient cause fails to comply with the provisions of that section, or makes any false return thereunder, or

(*h*) any person who trespasses into a census office,

shall be punishable with fine which may extend to one thousand rupees and in case of a conviction under part (*b*) or (*c*) shall also be punishable with imprisonment which may extend to six months.

(2) Whoever abets any offence under sub-section (1) shall be punishable with fine which may extend to one thousand rupees.

12. *Sanction required for prosecutions.*—No prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government.

13. *Operation of other laws not barred.*—Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act:

Provided that no such prosecution shall be instituted except with the previous sanction referred to in section 12.

14. *Jurisdiction.*—No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try, whether under this Act or under any other law, any act or omission which constitutes an offence under this Act.

15. *Record of census not open to inspection nor admissible in evidence.*—No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such, or any schedule delivered under section 10, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872

(1 of 1872), no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.

16. *Temporary suspension of other laws as to mode of taking census in municipalities.*—Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority, in consultation with the Superintendent of Census Operations or with such other authority as the Provincial Government may authorise in this behalf, shall, at the time appointed for the taking of any census cause the census of the municipality to be taken wholly or in part by any method authorised by or under this Act.

17. *Grant of statistical abstracts.*—The Census Commissioner or any Superintendent of Census Operations or such person as the Provincial Government may authorise in this behalf may, if he so thinks fit, at the request and cost (to be determined by him) of any local authority or person, cause abstracts to be prepared and supplied containing any such statistical information as can be derived from the census returns for the Provinces of India or the Province, as the case may be, being information which is not contained in published report and which in his opinion it is reasonable for that authority or person to require.

18. *Power to make rules.*—(1) The Central Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules providing for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census, and for the general instructions to be issued to such officers and persons.

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

(SUPPLEMENTAL)

BANGALORE, THURSDAY, SEPT. 7, 1950.

NOTIFICATION.

Dated Bangalore, the 6th September 1950.

It is hereby notified for the information and guidance of all Census Officers that THE CENSUS (AMENDMENT) ACT, 1950 has extended the operation of the Government of India Census Act (Act No. XXXVII of 1948) to the three States of Hyderabad, Mysore and Travancore—Cochin where it was not in force before, and that accordingly all action relating to the Census required under law for these States will have hereafter to be taken under the said Act XXXVII of 1948. The Mysore Census Act, 1949 (Act No. XXIII of 1949) under which action was being taken hitherto is repealed by Section 5 of the Census (Amendment) Act, 1950, with effect from 16th August 1950, the date on which the Amending Bill received the assent of the President. Notwithstanding the repeal, anything done or any action taken in the exercise of any power conferred by or under the Mysore Census Act, shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Indian Census Act, as if the Act were in force on the day on which such thing was done or action was taken.

The Census (Amendment) Act, 1950 and Act, No. XXXVII of 1948 (India Census Act) are published below as Annexures to this Notification.

J. B. MALLARADHYA,
Census Commissioner for Mysore.

ANNEXURE I. 16

THE CENSUS (AMENDMENT) ACT, 1950.

AN ACT TO AMEND THE CENSUS ACT, 1948.

1. *Short title.*—This Act may be called the Census (Amendment) Act, 1950.

2. *Amendment of Section 1, Act XXXVII of 1948.*—In sub-section (2) of section 1 of the Census Act, 1948 (hereinafter referred to as the said Act), for the words "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin", the words "except the State of Jammu and Kashmir" shall be substituted.

3. *Insertion of new Section 2 in Act XXXVII of 1948.*—After section 1 of the said Act, the following section shall be inserted, namely :—

"2. *Rule of construction respecting enactments not extending to Part B States.*—Any reference to the Indian Penal Code (Act XLV of 1860) or the Indian Evidence Act, 1872 (I of 1872), shall, in relation to a Part B State, be construed as a reference to the corresponding enactment in force in that State."

4. *Amendment of Section 14, Act XXXVII of 1948.*—In Section 14 of the said Act, after the words "Magistrate of the second class", the words "or in a Part B State, a Magistrate corresponding to a Magistrate of the second class" shall be inserted.

5. *Repeals and Savings.*—(1) If immediately before the commencement of this Act there is in force in the States of Hyderabad and Mysore any law which corresponds to the said Act, it is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the repealed law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the said Act, as if the said Act were in force on the day on which such thing was done or action was taken.

ANNEXURE II.

INDIA CENSUS ACT, 1948.

(*Published in the* Gazette of India *Extraordinary, Part IV, dated the 3rd September* 1948).

ACT No. XXXVII OF 1948.

An Act to provide for certain matters in connection with the taking of census.

WHEREAS it is expedient to provide for the taking of census in the Provinces and Acceding States of India or any part thereof whenever necessary or desirable and to provide for certain matters in connection with the taking of such census ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Census Act, 1948.

(2) It extends to all the Provinces of India and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects census.

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2. *Interpretation.*—In this Act, all references to the Provinces of India shall be construed as including reference to the Acceding States to which this Act for the time being extends, and in relation to any such Acceding State, all references to the Provincial Government shall be construed as references to the Government of that Acceding State.

3. *Central Government to take census.*—The Central Government may, by notification in the official Gazette, declare its intention of taking a census in the whole or any part of the territories to which this Act extends, whenever it may consider it necessary or desirable so to do, and thereupon the census shall be taken.

4. *Appointment of census staff.*—(*1*) The Central Government may appoint a Census Commissioner to supervise the taking of the census throughout the area in which the census is intended to be taken, and Superintendents of Census Operations to supervise the taking of the census within the several Provinces.

(*2*) The Provincial Government may appoint persons as census-officers to take, or aid in, or supervise the taking of, the census within any specified local area and such persons, when so appointed, shall be bound to serve accordingly.

(*3*) A declaration in writing, signed by any authority authorised by the Provincial Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(*4*) The Provincial Government may delegate to such authority as it thinks fit the power of appointing census-officers conferred by sub-section (*2*).

5. *Status of census authorities as public servants.*—The Census Commissioner, all Superintendents of Census Operations and all census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

6. *Discharge of duties of census-officers in certain cases.*—(*1*) Where the District Magistrate, or such authority, as the Provincial Government may appoint in this behalf, by a written order so directs—

(*a*) every officer in command of any body of men belonging to the naval military or air forces or of any vessel of war, of India,

(*b*) every person (except a pilot or harbourmaster) having charge or control of a vessel,

(*c*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up or of any public, charitable, religious or educational institution,

(*d*) every keeper, secretary or manager of any *sarai*, hotel, boarding house, lodging-house, emigration depot or club,

(*e*) every manager or officer of a railway or any commercial or industrial establishment, and

(*f*) every occupant of immovable property wherein at the time of the taking of the census persons are living,

shall perform such of the duties of a census officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property or are employed under him as may be specified in the order.

(2) All the provisions of this Act relating to census-officers shall apply, so far as may be, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which under this section he is directed to perform shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (XLV of 1860).

7. *Power to call upon certain persons to give assistance.*—The District Magistrate, or such authority as the Provincial Government may appoint in this

behalf for any local area, may, by written order which shall have effect throughout the extent of his district or of such local area, as the case may be, call upon—

(*a*) all owners and occupiers of land, tenure-holders, and farmers and assignees of land revenue, or their agents,

(*b*) all members of the district, municipal, *panchayat* and other local authorities and officers and servants of such authorities, and

(*c*) all officers and members of staff of any factory, firm or establishment, to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure-holders, farmers and assignees, or in the premises of factories, firms and other establishments, or within the areas for which such local authorities are established, as the case may be, and the persons to whom an order under this section is directed shall be bound to obey it and shall, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

8. *Asking of questions and obligation to answer.*—(*1*) A census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Provincial Government and published in the official Gazette, he may be directed to ask.

(*2*) Every person of whom any question is asked under sub-section (1) shall be legally bound to answer such question to the best of his knowledge or belief :

Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

9. *Occupier to permit access and affixing of numbers.*—Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census and as, having regard to the customs of the country, may be reasonable and shall allow them to paint on, or affix to, the place such letters, marks or numbers as may be necessary for the purposes of the census.

10. *Occupier or manager to fill up schedule.*—(*1*) Subject to such orders as the Provincial Government may issue in this behalf, a census-officer may, within the local area for which he is appointed, leave or cause to be left a schedule at any dwelling-house or with the manager or any officer of any commercial or industrial establishment for the purpose of its being filled up by the occupier of such house or of any specified part thereof or by such manager or officer with such particulars as the Provincial Government may direct regarding the inmates of such house or part thereof, or the persons employed under such manager or officer as the case may be, at the time of the taking of the census.

(*2*) When such schedule has been so left, the said occupier, manager or officer, as the case may be, shall fill it up or cause it to be filled up to the best of his knowledge or belief so far as regards the inmates of such house or part thereof or the persons employed under him, as the case may be, at the time aforesaid, and shall sign his name thereto and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as the census-officer may direct.

11. Penalties —

(*1*) (*a*) any census-officer or any person lawfully required to give assistance towards the taking of a census who refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty or in obeying any such order, or

(*b*) any census-officer who intentionally puts any offensive or improper question or knowingly makes any false return or, without the previous sanction of the Central Government or the Provincial Government, discloses any information which he has received by means of, or for the purposes of a census return, or

(*c*) any sorter, compiler or other member of the census staff who removes, secretes, damages or destroys any census document or deals with any census document in a manner likely to falsify or impair the tabulators of census results, or

(*d*) any person who intentionally gives a false answer to, or refuses to answer to the best of his knowledge or belief, any question asked of him by a census-officer which he is legally bound by section 8 to answer, or

(*e*) any person occupying any house, enclosure, vessel or other place who refuses to allow a census-officer such reasonable access thereto as he is required by section 9 to allow, or

(*f*) any person who, removes, obliterates alters, or damages any letters, marks or numbers which have been painted or affixed for the purposes of the census, or

(*g*) any person who, having been required under section 10 to fill up a schedule, knowingly and without sufficient cause fails to comply with the provisions of that section, or makes any false return thereunder, or

(*h*) any person who trespasses into a census office,

shall be punishable with fine which may extend to one thousand rupees and in case of a conviction under part (*b*) or (*c*) shall also be punishable with imprisonment which may extend to six months.

(*2*) Whoever abets any offence under sub-section (1) shall be punishable with fine which may extend to one thousand rupees.

12. *Sanction required for prosecutions.*—No prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government.

13. *Operation of other laws not barred.*—Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act:

Provided that no such prosecution shall be instituted except with the previous sanction referred to in section 12.

14. *Jurisdiction.*—No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try, whether under this Act or under any other law, any act or omission which constitutes an offence under this Act.

15. *Record of census not open to inspection nor admissible in evidence.*—No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such, or any schedule delivered under section 10, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872

(I of 1872), no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.

16. *Temporary suspension of other laws as to mode of taking census in municipalities.*—Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority, in consultation with the Superintendent of Census Operations or with such other authority as the Provincial Government may authorise in this behalf, shall, at the time appointed for the taking of any census cause the census of the municipality to be taken wholly or in part by any method authorised by or under this Act.

17. *Grant of statistical abstracts.*—The Census Commissioner or any Superintendent of Census Operations or such person as the Provincial Government may authorise in this behalf may, if he so thinks fit, at the request and cost (to be determined by him) of any local authority or person, cause abstracts to be prepared and supplied containing any such statistical information as can be derived from the census returns for the Provinces of India or the Province, as the case may be, being information which is not contained in published report and which in his opinion it is reasonable for that authority or person to require.

18. *Power to make rules.*—(*1*) The Central Government may make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules providing for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census, and for the general instructions to be issued to such officers and persons.

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BANGALORE, THURSDAY, SEPTEMBER 7, 1950.

PART IV

Section—1-B.

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1817—Legis. 2-50-38, Bangalore, dated 6th September 1950.

Ordered that the accompanying Supply and Prices of Goods Ordinance, 1950 (XXVI of 1950), published in the *Gazette of India*, Part II, Section 1, dated the 2nd September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

AN ORDINANCE

to provide, in pursuance of a resolution under article 249 of the Constitution, for the control of prices of certain goods, and the supply and distribution thereof.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Supply and Prices of Goods Ordinance, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. *Definitions.*—(1) In this Ordinance, unless the context otherwise requires,—

(*a*) "dealer" means a person carrying on the business of selling any goods, whether wholesale or retail ;

(*b*) "goods" means goods to which this Ordinance applies ;

(*c*) "notified order" means an order notified in the Official Gazette ;

(*d*) "offer for sale" includes an intimation by a person of the price proposed by him for a sale of any goods made by the publication of a price list, by exposing his goods for sale in association with a mark indicating price, by the furnishing of a quotation or otherwise howsoever ;

(*e*) "prescribed" means prescribed by rules made under this Ordinance ;

(*f*) "producer" includes a manufacturer.

(2) A person shall be deemed to be in possession of goods—

(i) when they are held on behalf of that person by another person ;

(ii) notwithstanding that they are mortgaged to another person.

3. *Goods to which this Ordinance applies.*—Subject to the provisions contained in section 10, this Ordinance applies to the goods specified in the Schedule and to such other goods as the Central Government may, by notified order, specify in this behalf.

4. *Fixing of maximum prices and maximum quantities which may be held or sold.*—(1) The Central Government may, by notified order, fix in respect of any goods—

(*a*) the maximum price or rate which may be charged by a dealer or producer ;

(*b*) the maximum quantity which may at any one time be possessed by a dealer or producer ;

(*c*) the maximum quantity which may in one transaction be sold to any person.

(2) Any such order may—

(*a*) fix maximum prices or rates and maximum quantities for the same description of goods differently in different localities or for different classes of dealers or producers ;

(*b*) instead of specifying the maximum price or rate to be charged, direct that that price or rate shall be computed in such manner and by reference to such matters as may be provided by the order.

5. *Restrictions on possession and sale by dealers and producers where maximum is fixed under section 4.*—(1) No dealer or producer shall—

(*a*) sell or agree to sell or offer for sale to any person any goods for a price or at a rate exceeding the maximum fixed by notification under clause (*a*) of sub-section (1) of section 4 ;

(*b*) have in his possession at any one time a quantity of any goods exceeding the maximum fixed under clause (*b*) of sub-section (1) of section 4, unless he has reported the fact of such possession to the Central

Government or to the officer appointed in that behalf as required by section 7, or

(*c*) sell or agree to sell or offer for sale to any person in any one transaction a quantity of any goods exceeding the maximum fixed by notification under clause (*c*) of sub-section (1) of section 4.

(2) Where any goods are sold, agreed to be sold, or offered for sale in contravention of sub-section (1) by a dealer or producer through any person employed by him or acting on his behalf, such person and also, unless he proves that he exercised due diligence to prevent such contravention, the dealer or producer, as the case may be, shall be liable to the punishment provided by sub-section (1) of section 14.

(3) Where a dealer or producer disposes of any goods by having them sold by auction on his behalf, the auctioneer, as well as the dealer or producer, shall be liable to the punishment under sub-section (1) of section 14, if in any such sale there is a contravention of clause (*c*) of sub-section (1).

6. *General limitation of quantity which may be possessed at any one time.*—(1) No person shall have in his possession at any one time a greater quantity of any goods to which this section applies than the quantity necessary for the reasonable needs of himself and his family for the prescribed period, unless he has reported the fact of such possession to the Central Government or to the officer appointed in that behalf as required by section 7:

Provided that nothing contained in this sub-section shall apply—

(*a*) to a dealer in respect of any goods sold or purchased by him in the course of his business, or

(*b*) to a producer in respect of any goods produced by him.

(2) For the purposes of this section, the Central Government may prescribe the circumstances and matters which shall be taken into account in determining the reasonable needs of any person, and may prescribe different periods for different areas or for different classes of goods.

(3) This section shall apply only to such goods as the Central Government may, by notified order, specify in this behalf.

7. *Duty to declare possession of excess stocks.*—Any person having in his possession a quantity of any goods, exceeding that permitted by or under this Ordinance shall forthwith report the fact to the Central Government or to any officer appointed by it in this behalf and shall take such action as to the storage, distribution or disposal of the excess quantity as may be prescribed or as the Central Government or such officer may direct.

8. *Holding of stocks.*—(1) If any dealer has in his possession in the course of his business a stock of any goods and the said dealer or any person employed by him to sell goods in the course of his business, when asked by any other person (hereafter in this section referred to as "the buyer") to sell goods of that description or whether he or his employer has such goods for sale—

(*i*) refuses to sell the goods, or denies that he or his employer has the goods, or by words or conduct intentionally causes the buyer to believe that he or his employer has not got the goods or will not or cannot sell them; or

(*ii*) offers to sell the goods subject to a condition requiring the buying of any other goods or subject to any other condition except the condition that the buyer shall pay the price forthwith or take delivery within a reasonable time,

the dealer carrying on the business shall be guilty of an offence under this Ordinance.

(2) It shall be a defence for a person charged with any such offence to prove that the sale of the goods or the sale thereof without the fulfilment of the condition proposed by him, would, having regard to the quantity of goods which he or that person was requested to sell or any other consideration—

(*a*) be contrary to the normal practice of his business; or

(*b*) involve a breach of some obligation lawfully binding on him; or

(*c*) interfere with arrangements made by him for an orderly disposal of his stock among his regular customers.

9. *Cash memorandum to be given of certain sales.*—(1) Every dealer or producer, when selling goods for cash shall, if the amount of the purchase is rupees ten or more, in all cases, and if the amount of the purchase is less than rupees ten, when so required by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

(2) The Central Government may prescribe the particulars to be contained in any such cash memorandum.

(3) The Central Government may, by notified order, exempt specified areas, classes of dealers or producers, or goods or classes of goods from the operation of this section.

10. *Marking of prices and exhibiting price lists and stocks.*—(1) The Central Government may direct dealers or producers in general, or any dealer or producer or class of dealers or producers in particular, to mark goods exposed or intended for sale with the sale prices or to exhibit at some easily accessible place on the premises price lists of goods held for sale and also to similarly exhibit on the first day of every month, or at such other intervals as may be prescribed, a statement of the total quantities of any such goods held in stock and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.

(2) No dealer shall destroy or efface, or alter or cause to be destroyed, effaced or altered, any label or mark affixed—

(*a*) to any goods in pursuance of a direction under sub-section (1), or

(*b*) to any goods and indicating the price marked by a producer.

(3) Notwithstanding anything contained in section 3, the Central Government may, by notified order, declare that the provisions of this section shall also apply to any goods other than those to which this Ordinance applies within the meaning of that section.

11. *Obligation to state prices separately in composite offer.*—Where a dealer or producer makes an offer to enter into a transaction for a consideration to be given as a whole in respect of both of a sale of any goods and of some other matter, the dealer or producer making the offer shall state in writing the price which he assigns to the goods, if he is required so to do by any person to whom the offer is made, and the offer shall be deemed for the purposes of this Ordinance to be an offer to sell the goods at the price so stated.

12. *Prohibition of closure of shops.*—No dealer in any goods shall keep his shop closed with the intention of avoiding the regular sale of such goods and thereby obtaining a higher price for the goods at a later date.

13. *Power to regulate production and distribution of goods.*—The Central Government may by order in writing,—

(*a*) prohibit the disposal of any goods except in such circumstances and under such conditions as may be specified in the order;

(*b*) direct the sale of the whole or a specified part of the stock of any goods at such prices and to such persons or class of persons or in such circumstances as may be specified in the order;

(c) regulate by licences, permits or otherwise the production, supply, storage, transport, distribution, use or consumption of any goods.

14. *Penalties.*—(1) Any person who contravenes any of the provisions of this Ordinance or of any orders or rules made thereunder shall, if no other punishment is specified therefor in this Ordinance, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both :

Provided that where the person is guilty of an offence under section 8, the court shall sentence him to imprisonment for a term which may extend to three years and may in addition impose a sentence of fine.

(2) Any person who fails to comply with any directions made under authority conferred by this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both ;

(3) A Court convicting any person of an offence punishable under this Ordinance may order that the goods in respect of which the offence has been committed or a specified part thereof shall be forfeited to the Government.

15. *Offences by Corporation.*—(1) Where any person contravening any of the provisions of this Ordinance or of any order or direction made thereunder is a company or other body corporate, every person, who, during the relevant period, was in charge of, and was responsible to the company or other body corporate during that period for the conduct of the business of, the establishment in or in relation to which the contravention has taken place, as well as the company or other body corporate, shall be deemed to be guilty of such contravention and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any person so in charge or responsible liable to any punishment provided in this Ordinance, if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance or any order or direction made thereunder has been committed by a company or other body corporate and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company or other body corporate, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and shall be punished accordingly.

16. *Powers of search and seizure.*—(1) For the purpose of enforcing the provisions of this Ordinance, the Central Government may, by general or special order, authorise any officer not below the rank of an Inspector of Police—

(*a*) to enter and search any premises, vehicles, vessels or aircraft occupied for the purpose of the business in any goods or where any such goods may be found ;

(*b*) to seize any goods in respect of which he has reason to believe that an offence under this Ordinance has been committed and thereafter to take all such measures as may be necessary for securing the production of such goods in court.

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(2) If any person obstructs an officer in the exercise of the powers conferred upon him by this section he shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

17. *Procedure.*—No offence punishable under this Ordinance shall be enquired into by any person below the rank of an Inspector of Police, and no prosecution for any such offence shall be instituted except with the previous sanction of the Central Government, or of an officer not below the rank of a District Magistrate empowered by the Central Government to grant such sanction.

18. *Summary Trials.*—(1) Notwithstanding anything contained in section 260 of the Code of Criminal Procedure, 1898 (V of 1898), a Magistrate empowered to act under that section may try any offence punishable under this Ordinance in a summary way under the provisions of Chapter XXII of the said Code, and shall so try any such offence unless he is of opinion that in the event of the offence being proved a sentence which he is empowered under that Chapter to impose would be insufficient.

(2) Notwithstanding anything contained in section 362 of the said Code, a Presidency Magistrate trying an offence punishable under this Ordinance shall not record the evidence or frame a charge unless he is of opinion that in the event of the offence being proved a sentence against which, in accordance with the provisions of sections 404 and 411 of the said Code no appeal lies, would be insufficient :

Provided that, where at any subsequent stage of a trial commenced in accordance with this sub-section, it appears to the Presidency Magistrate that in the event of the offence being proved such sentence as aforesaid would be insufficient, he shall recall any witnesses who may have been examined and proceed to rehear the case in the manner provided in the said section 362 for a case in which an appeal lies.

(3) Notwithstanding anything contained in section 526 of the said Code, no decision of a Court to try any offence punishable under this Ordinance otherwise than in the summary manner provided by this section shall be a valid ground on which to make an application under that section.

19. *Accounts and information.*—(1) The Central Government may direct any dealer or producer to keep such books, accounts, and other records in relation to all sale and purchase transactions entered into by him, as it thinks fit.

(2) The Central Government may direct a dealer or producer—

(*a*) to produce to, and allow to be examined by, a person specified in this behalf such books, accounts or other documents in the custody or under the control of the person so required as may be specified or described in the direction being documents relating to the transactions or business the examination of which may be required for the purpose of this Ordinance; and

(*b*) to furnish to a person so specified such information as respects the transaction or business as may be required for the purposes of this Ordinance or such other information as may be in his possession in relation to the business carried on by another person.

(3) The Central Government may, be notified order, issue to all dealers and producers of a specified class a direction such as is referred to in sub-section (1) or in clause (*a*) of sub-section (2).

20. *Restriction on disclosure of information.*—(1) No information with respect to any particular business which has been obtained under this Ordinance

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shall, without the consent of the person carrying on that business, be disclosed otherwise than in connection with the execution of this Ordinance :

Provided that nothing in this section shall apply to a disclosure of information made for the purpose of any criminal proceedings which may be taken whether by virtue of this Ordinance or otherwise, or for the purposes of any other law for the time being in force.

(2) If any person discloses any information in contravention of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

21. *Power to exempt.*—The Central Government may, by notified order, exempt any person or any goods or class of goods from all or any of the provisions of this Ordinance or of any order made thereunder.

22. *Delegation of powers.*—The Central Government may, by notified order, direct that any power exercisable by it under this Ordinance (except the power given to it under section 5) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Central Government, or by such State Government, or such officer or authority subordinate to a State Government, as may be specified in the directions.

23. *Power to issue directions to State Governments.*—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Ordinance or of any order or direction made thereunder.

24. *Bar of legal proceedings.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance.

25. *Saving of other laws.*—The provisions of this Ordinance shall be in addition to, and not in derogation of, any other law for the time being in force regulating the keeping, searching, distribution, disposal or price of goods.

26. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the objects of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the matters referred to in sub-section (2) of section 6 ;

(*b*) the particulars to be contained in any cash memorandum under section 9 ;

(*c*) the manner in which prices may be marked on goods and price lists exhibited ;

(*d*) the issue of licences under section 13, and the attachment of any conditions thereto and the levying of a fee therefor.

THE SCHEDULE

(*See* SECTION 3)

Goods to which this Ordinance applies.

SCHEDULE

1. Non-ferrous metals, including brass (unwrought and semi-manufactured).
2. Bicycles.
3. Cycle tyres and tubes.
4. Electric bulbs.
5. Razor blades.
6. Caustic soda.
7. Soda ash.
8. Tanning materials (wattle bark, wattle extract, quebracho).
9. Raw rubber.
10. Casein.
11. Infants' foods (Glaxo, Horlicks, and Cow and Gate Milk).

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secretary to Government of India.

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PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1818—Legis. 6-50-37, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (10)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

New Delhi, the 2nd September, 1950.

NOTIFICATION

No. I(4)-32 (10)—50.—In exercise of the powers conferred by section 4, 7, 9, 10 and 16 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950) and of all other powers enabling it in this behalf, the Central Government is pleased—

(*a*) to fix, in respect of the goods specified in column 1 of the schedule hereto annexed, the price specified in column 2 thereof as the maximum price, which may be charged by a dealer or producer;

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(*b*) to direct that every dealer in, and producer of, such goods shall—

(i) maintain a record of all transactions of sales entered into by him, the record showing the name and address of the buyer and the quantity of goods sold under each transaction;

(ii) exhibit as soon as possible but not later than the 10th September 1950 and on the 1st day of every subsequent month at some easily accessible place on the premises a price list of such goods held for sale and a statement of the total quantity of any such goods held in stock;

(iii) declare in writing before the 15th September 1950 to the Secretary to the Government of India, Ministry of Industry and Supply, New Delhi, the stock of such goods held by him on the 1st September 1950. A copy of such statement shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business;

(*c*) to direct that no dealer in, or producer of, any such goods shall sell any such goods to a dealer unless he has obtained from the dealer a declaration in writing that the quantity proposed to be sold to him does not exceed his requirements for normal trade for three months.

SCHEDULE

Goods	*Maximum price*
Bicycles—All makes	The price prevailing on the 15th June 1950 in the locality where the dealer or producer is carrying on business.
Cycle tyres and tubes	Do do do

S. A. VENKATARAMAN,
Secretary to the Government of India.

NOTIFICATION.

No. L. D. 1819—Legis. 6-50-38, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (11)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA 3.1

MINISTRY OF INDUSTRY AND SUPPLY

New Delhi, the 2nd September, 1950.

NOTIFICATION

No. I (4)-32 (11)—50.—In exercise of the powers conferred by sections 4, 7, 9, 10 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), and of all other powers enabling it in this behalf, the Central Government is pleased :—

(*a*) to fix, in respect of the goods specified in column 1 of the schedule hereto annexed, the price specified in column 2 thereof as the maximum price which may be charged by a dealer or producer;

(*b*) to direct that in respect of such goods—

(i) the maximum quantity which may be sold in any one transaction to any person other than a dealer shall be one tin or bottle, as the case may be;

(ii) a sale shall not be made to a dealer unless the seller has obtained from the dealer a declaration in writing that the quantity proposed to be sold to him does not exceed his requirements for normal trade for three months;

(iii) every dealer and producer shall exhibit as soon as possible but not later than the 10th September 1950 and on the 1st day of every subsequent month at some easily accessible place on the premises a price list of such goods held for sale and a statement of the total quantity of any such goods held in stock;

(iv) every dealer and producer shall declare in writing before the 15th September, 1950, to the Secretary to the Government of India, Ministry of Industry and Supply, New Delhi, the stock of such goods held by him on the 1st September 1950. A copy of such statement shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business.

SCHEDULE

Goods	*Maximum price*
Infants foods (Glaxo, Harlicks and Cow and Gate Milk).	The price prevailing on the 15th June, 1950 in the locality where the dealer or producer is carrying on business.

S. A. VENKATARAMAN,
Secretary to the Government of India.

NOTIFICATION. 32

No. L. D. 1820—Legis. 6-50-39, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (12)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

New Delhi, the 2nd September, 1950.

NOTIFICATION

No. I (4)-32 (12)—50.—In exercise of the powers conferred by sections 4, 9, 10, 13 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), and of all other powers enabling it in this behalf, the Central Government is pleased to direct that—

(*a*) in respect of the goods, specified in column 1 of the schedule hereto annexed, the maximum price which may be charged by a dealer or producer shall be computed in the manner specified in column 2 thereof;

(*b*) no dealer or producer shall sell any such goods except under a general or special authority in writing of the Director-General of Industries and Supplies, New Delhi, or any officer authorised by him in writing in this behalf;

(*c*) every dealer in, and producer of, such goods shall, before the 15th September 1950, declare in writing to the Director-General of Industries and Supplies, New Delhi, the stock of such goods held by him on the 1st of September 1950;

(*d*) every dealer and producer shall exhibit as soon as possible but not later than the 10th September 1950 and on the 1st day of every subsequent month at some easily accessible place on the premises a price list of such goods held for sale and a statement of the total quantity of any such goods held in stock.

SCHEDULE

Goods	*Basis of computation of maximum price*
Tanning materials (Wattle bark, wattle extract and quebracho).	Landed cost *plus* 10 per cent thereof.

S. A. VENKATARAMAN,
Secretary to the Government of India.

NOTIFICATION. 33

No. L.D. 1821—Legis. 6-50-40, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (13)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

New Delhi, the 2nd September, 1950.

NOTIFICATION

No. I (4)-32 (13)—50.—In exercise of the powers conferred by sections 4, 7, 10 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), and of all other powers enabling it in this behalf, the Central Government is pleased :—

(*a*) to fix, in respect of the goods specified in column 1 of the schedule hereto annexed, the price specified in column 2 thereof as the maximum price which may be charged by a dealer or producer ;

(*b*) to direct that in respect of such goods—

(i) the maximum quantity which may in any one transaction be sold to any person other than a dealer shall be 3 packets of 5 blades each ;

(ii) a sale shall not be made to a dealer unless the seller has obtained from the dealer a declaration in writing that the quantity proposed to be sold to him does not exceed his requirements for normal trade for 3 months ;

(iii) every dealer and producer shall exhibit as soon as possible but not later than the 10th September 1950 and on the 1st day of every subsequent month at some easily accessible place on the premises a price list of such goods held for sale and a statement of the total quantity of any such goods held in stock.

SCHEDULE

Goods	*Maximum price*
Razor blades ...	The price prevailing on the 15th June 1950, in the locality where the dealer or producer is carrying on business.

S. A. VENKATARAMAN,
Secretary to the Government of India.

NOTIFICATION. 34

No. L.D. 1822—Legis. 6-50-41, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (14)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

New Delhi, the 2nd September 1950

NOTIFICATION

No. I (4)-32 (14)—50.—In exercise of the powers conferred by sections 4, 7, 9, 10 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950); and of all other powers enabling it in this behalf, the Central Government is pleased—

(*a*) to fix in respect of the goods specified in column 1 of the Schedule hereto annexed the price specified in column 2 thereof as the maximum price which may be charged by a dealer or producer; and

(*b*) to direct that in respect of such goods—

(i) every dealer and producer shall before the 15th September 1950, declare in writing to the Director-General of Industries and Supplies, New Delhi, the stock of such goods held by him on the 1st September 1950 and shall thereafter, before the 7th day of each month send to the said officer a statement showing the total quantity sold, with particulars of sales of over 10 tons, made by him during the previous month. Such particulars shall include in respect of each transaction the quantity sold and the name and address of the buyer;

(ii) no person, other than a dealer or a producer, who has purchased any such goods for his consumption shall resell them without the previous permission in writing of the Director-General of Industries and Supplies, New Delhi, or any officer authorised by him in writing in this behalf; and

(iii) every dealer and producer shall exhibit as soon as possible but not later than the 10th September 1950 and on the 1st day of every subsequent month at some easily accessible place on the premises a price list of such goods held for sale and a statement of the total quantity of any such goods held in stock.

SCHEDULE 35

Soda Ash	*Maximum price.*
Soda ash Caustic Soda	The price prevailing on the 15th June 1950, in the locality where the dealer or producer is carrying on business.

S. A. VENKATARAMAN,
Secretary to the Government of India.

NOTIFICATION.

No. L. D. 1823—Legis. 6-50-42, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (16)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

NOTIFICATION

New Delhi, the 2nd September 1950

No. I (4)-32 (16)—50.—In exercise of the powers conferred by sections 4, 7, 10 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), and of all other powers enabling it in this behalf, the Central Government is pleased—

(*a*) to fix in respect of the goods specified in colum 1 of the Schedule hereto annexed the price specified in column 2 thereof as the maximum price which may be charged by a dealer or producer; and

(*b*) to direct that every dealer in, and producer of, such goods shall—

(i) maintain a record of every transaction of sale exceeding 12 bulbs, the record showing the quantity sold and the name and address of the buyer;

(ii) exhibit as soon as possible but not later than the 10th September 1950 and on the 1st day of every subsequent month at some easily accessible place on the premises a price list of such goods held for sale and a statement of the total quantity of any such goods held in stock; and

(iii) declare in writing before the 15th September 1950 to the Secretary to the Government of India, Ministry of Industry and Supply, New Delhi, the stock of such goods held by him on the 1st September 1950. A copy of such statement shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business.

SCHEDULE

Goods.	*Maximum price.*
Electric bulbs (G.L.S.) ..	The price prevailing on the 15th June 1950 in the locality where the dealer or producer is carrying on business.

S. A. VENKATARAMAN,
Secretary to the Government of India.

NOTIFICATION.

No. L.D. 1824—Legis. 6-50-43, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (17)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

NOTIFICATION

New Delhi, the 2nd September 1950

No. I (4)-32 (17)—50.—In exercise of the powers conferred by sections 4, 7, 9, 10 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950) and all other powers enabling it in this behalf, the Central Government is pleased to direct that—

(*a*) every dealer and producer in non-ferrous metals including brass (unwrought and semi-manufactured) shall maintain a record in respect of every transaction of sale of such non-ferrous metals entered into by him;

(*b*) no such dealer or producer shall sell any non-ferrous metals exceeding one ton unless he has obtained a declaration in writing from the buyer that the quantity proposed to be sold to him does not exceed his requirements for consumption for three months or in case the buyer is a dealer his requirements for normal trade for three months;

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(c) every such dealer and producer shall exhibit as soon as possible but not later than the 10th September 1950 and on the 1st day of every subsequent month at some easily accessible place on the premises a price list of such metals held for sale and a statement of the total quantity of any such metals held in stock;

(d) every such dealer or producer holding stocks of such metals of five tons or more on the 1st September 1950, shall declare in writing before the 15th September 1950, to the Secretary to the Government of India in the Ministry of Industry and Supply, the stocks of such metals held by him on the first mentioned date. A copy of such declaration shall be sent by him to the Chief Secretary of the Government of the State in which the dealer is carrying on business.

S. A. VENKATARAMAN,
Secretary to the Government of India.

NOTIFICATION.

No. L.D. 1825—Legis. 6-50-44, Bangalore, dated 6th September 1950.

Ordered that the accompanying Notification No. I (4)-32 (19)—50, dated 2nd September 1950, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

NOTIFICATION

New Delhi, the 2nd September 1950

No. I (4)-32 (19)—50.—In exercise of the powers conferred by section 26 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), the Central Government is pleased to make the following rule, namely:

The cash memorandum to be issued under section 9 of the said Ordinance shall, in respect of each transaction, contain the quantity of the goods sold and the name and address of the buyer.

S. A. VENKATARAMAN,
Secretary to the Government of India.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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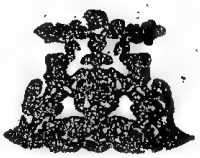

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

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PART IV

Section—1-B.

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1764—Legis. 2-50-31, Bangalore, dated the 30th August 1950.

Ordered that the following Cantonment Laws (Extension and Amendment) Act, 1950 (LIII of 1950) published in the *Gazette of India*, Part II, Section 1, dated the 19th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE CANTONMENT LAWS (EXTENSION AND AMENDMENT) ACT, 1950 (LIII OF 1950).

AN

ACT

to extend the Cantonments (House Accommodation) Act, 1923, and the Cantonments Act, 1924, to Part B States, to provide for elections to Cantonment Boards on the basis of adult suffrage and to provide for a temporary extension of the term of office of elected members of Cantonment Boards.

BE it enacted by Parliament as follows:

1. Short title.—This Act may be called the Cantonment Laws (Extension and Amendment) Act, 1950.

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2. Amendment of section 1, Act VI of 1923.—In sub-section (*2*) of section 1 of the Cantonments (House Accommodation) Act, 1923, the words and letter "except Part B States" shall be omitted.

3. Amendment of section 2, Act VI of 1923.—To section 2 of the Cantonments (House Accommodation) Act, 1923, the following sub-section shall be added, namely :—

"(*3*) In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in that State."

4. Amendment of section 1, Act II of 1924.—In sub-section (*2*) of section 1 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), the words and letter "except Part B States" shall be omitted.

5. Insertion of new section 2-A in Act II of 1924.—After section 2 of the said Act, the following section shall be inserted, namely :—

"2-A. *Rule of construction.*—In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in that State."

6. Amendment of section 27, Act II of 1924.—In section 27 of the said Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely :—

"(*1*) Every person who, on such date as may be fixed by the Central Government in this behalf by notification in the Official Gazette (hereinafter in this section referred to as 'the qualifying date'), is not less than twenty-one years of age and who has resided in the cantonment for a period of not less than six months immediately preceding the qualifying date shall, if not otherwise disqualified, be entitled to be enrolled as an elector.

Explanation.—When any place is declared a cantonment for the first time, or when any local area is first included in a cantonment, residence in the place or area comprising the cantonment on the aforesaid date shall be deemed to be residence in the cantonment for the purposes of this sub-section.";

(*ii*) in sub-section (*2*),—

(*a*) for the words "aforesaid date" the words "qualifying date" shall be substituted ;

(*b*) clause (*ii*) shall be omitted.

7. Amendment of section 29, Act II of 1924.—Clause (*b*) of section 29 of the said Act shall be omitted.

8. Amendment of section 31, Act II of 1924.—Clause (*c*) of section 31 of the said Act shall be omitted.

9. Extension of term of office of elected members of Cantonment Boards.—Notwithstanding anything contained in section 15 of the said Act, the elected members of every Cantonment Board holding office immediately before the commencement of this Act shall continue to hold office until the date of the notification of the election of their successors under sub-section (7) of section 13 of the said Act.

10. Repeal and savings.—(*1*) The Cantonment Laws (Extension and Amendment) Ordinance, 1950 (XVIII of 1950) is hereby repealed.

(2) If immediately before the 19th day of June, 1950, there was in force in any of the Part B States any law corresponding to the Cantonments (House Accommodation) Act, 1923 (VI of 1923), or the Cantonments Act, 1924 (II of 1924), such corresponding law is hereby repealed.

(3) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under such corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Cantonments (House Accommodation) Act, 1923, or the Cantonments Act, 1924, as the case may be, as if those Acts were in force in the State on the day on which such thing was done or action was taken.

K. V. K. SUNDARAM, *Secy.*

NOTIFICATION.

No. L. D. 1755—Legis. 2-50-36. Bangalore, dated 30th August 1950.

Ordered that the following Appropriation (No. 3) Act, 1950 (LX of 1950) published in the *Gazette of India*, Part II, Section I, dated the 25th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW

Received Assent on 24th August 1950.

THE APPROPRIATION (No. 3), Act. 1950.

ACT No. LX OF 1950.

AN

ACT

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March, 1951.

Be it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Appropriation (No. 3) Act, 1950.

2. **Issue of Rs. 15,27,60,000 out of the Consolidated Fund of India for the year 1950-51.**—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of fifteen crores, twenty-seven lakhs and sixty thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1951, in respect of the services specified in column 2 of the Schedule.

3. **Appropriation.**—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1951.

SCHEDULE

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
8	Indian Posts and Telegraphs Department(including Working Expenses).	25,00,000	...	25,00,000
9	Cabinet	77,000	...	77,000
11	Ministry of Home Affairs	1,83,000	...	1,83,000
109A	Transfer to Contingency Fund of India.	15,00,00,000	...	15,00,00,000
	GRAND TOTAL ...	15,27,60,000	...	15,27,60,000

NOTIFICATION. 42

No. L. D. 1766—Legis. 2-50-37, Bangalore, dated 30th August 1950.

Ordered that the following Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950 (LXI of 1950), published in the *Gazette of India*, Part II, Section 1, dated the 25th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembranecr and
Secretary to Government,
Law Department.

Received Assent on 24th August 1950.

THE VOLUNTARY SURRENDER OF SALARIES (EXEMPTION FROM TAXATION) ACT, (LXI OF 1950).

AN

ACT

to provide for exempting from taxes on income a portion of the salaries of certain persons who have in the public interest volunteered to forego it.

Be it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950.

2. **Exemption from taxes on income in respect of salaries surrendered by certain persons.**—(1) Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), or in any other law for the time being in force relating to taxation on income, no income-tax or super-tax shall be payable by any person specified in sub-section (2) of this section in respect of that part of the salary due to him under law for any period after the 31st day of October, 1949, which that person has, by declaration in writing, volunteered to forego in the public interest; and that part of the salary shall not be included in his total income for the purposes of any law relating to taxation on income.

(2) The persons referred to in sub-section (1) are—

(*a*) the President of India;

(*b*) the Ministers, Ministers of State and Deputy Ministers of the Dominion or of the Union;

(*c*) the President of the Constituent Assembly of the Dominion.

(*d*) the Speaker and Deputy Speaker of the Dominion Legislature or of Parliament;

(*e*) the Judges of the Federal Court or of the Supreme Court;

(*f*) the Auditor-General of India or the Comptroller and Auditor-General of India;

(*g*) the Governors of Provinces or of Part A States;

(*h*) the Ministers and Deputy Ministers of States;

(*i*) the Speakers and Deputy Speakers of the Legislative Assemblies of States;

(*j*) the Chairmen and Deputy Chairmen of the Legislative Councils of States;

(*k*) the Judges of the High Courts for Governors' Provinces or for Part A States.

3. **Repeal of Ordinance XV of 1950**—The Voluntary Surrender of Salaries (Exemption from Taxation) Ordinance, 1950 (XV of 1950) is hereby repealed.

K. V. K. SUNDARAM,
Secretary.

NOTIFICATION.

No. L. D. 1772—Legis. 2-50-32, Bangalore, dated the 31st August 1950.

Ordered that the following Finance Laws (Amendment) Act, 1950 (LIV of 1950) published in the *Gazette of India*, Part II, Section 1, dated the 23rd August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

Received Assent on 22nd August 1950.

GOVERNMENT OF INDIA

MINISTRY OF LAW.

ACT No. LIV OF 1950.

FINANCE LAWS (AMENDMENT) ACT, 1950.

AN

ACT

to amend the Indian Finance Act, 1949 *and the Finance Act*, 1950.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Finance Laws (Amendment) Act, 1950.

2. *Amendment of Third Schedule, Act XIV of* 1949.—In Part I of the Third Schedule to the Indian Finance Act, 1949,—

(*a*) in sub-clauses (*a*) and (*b*) of clause (*i*) of the proviso to paragraph A, for the words "entitled to a share on partition," the words "entitled to claim partition" shall be substituted and shall be deemed always to have been substituted; and

(*b*) at the end of paragraph A, the following *Explanation* shall be inserted, namely :—

"*Explanation.*—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather, notwithstanding any custom to the contrary."

3. *Amendment of First Schedule, Act XXV of* 1950.—In Part I of the First Schedule to the Finance Act, 1950,—

(*a*) in sub-clauses (*a*) and (*b*) of clause (*i*) of the proviso to paragraph A, for the words "entitled to a share on partition," the words "entitled to claim partition" shall be substituted and shall be deemed always to have been substituted; and

(*b*) at the end of paragraph A, the following *Explanation* shall be inserted, namely :—

"*Explanation.*—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather, notwithstanding any custom to the contrary."

NOTIFICATION.

No. L. D. 1773—Legis. 2-50-33, Bangalore, dated the 31st August 1950.

Ordered that the following Influx from Pakistan (Control) Amendment Act, 1950 (LV of 1950) published in the *Gazette of India*, Part II, Section 1, dated the 23rd August 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government.
Law Department.

Received Assent on 22nd August 1950.

ACT No. LV OF 1950.

THE INFLUX FROM PAKISTAN (CONTROL) AMENDMENT ACT, 1950.

AN

ACT

to amend the Influx from Pakistan (Control) Act, 1949.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Influx from Pakistan (Control) Amendment Act, 1950.

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2. *Amendment of Section* 1, *Act XXIII of* 1949.—In sub-section (2) of section 1 of the Influx from Pakistan (Control) Act, 1949 (hereinafter referred to as the said Act), the words "except the State of Hyderabad" shall be omitted.

3. *Amendment of Section* 2, *Act XXIII of* 1949.—Clause (*d*) of section 2 of the said Act shall be omitted.

4. *Insertion of new Section* 5-*A in Act XXIII of* 1949.—After section 5 of the said Act, the following section shall be inserted, namely :—

"5-A. *Place of trial of offences.*—An offence punishable under this Act may be tried by a court within the local limits of whose jurisdiction the offence was committed or the accused person may be found."

5. *Repeal of Ordinance XXII of* 1950.—(*1*) The Influx from Pakistan (Control) Amendment Ordinance, 1950 (XXII of 1950) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

NOTIFICATION.

No. L.D.1774—Legis. 2-5-34, Bangalore, dated 31st August 1950.

Ordered that the following Naval Forces (Miscellaneous Provisions) Act, 1950 (LVII of 1950) published in the *Gazette of India*, Part II, Section 1, dated the 23rd August 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

Received Assent on 22nd August 1950.

ACT No. LVII OF 1950.

THE NAVAL FORCES (MISCELLANEOUS PROVISIONS) ACT, 1950

AN

ACT

to make certain additional provisions respecting the naval forces of the Union so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

BE it enacted by Parliament as follows :—

1 Short title.—This Act may be called the Naval Forces (Miscellaneous Provisions) Act, 1950.

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2. **Ineligibility of females for enrolment or appointment in the naval forces.**—No female shall be eligible for enrolment or appointment in the naval forces except in such department, branch or other body forming part of, or attached to any portion of, the naval forces as the Central Government may, by notification in the Official Gazette, specify in this behalf.

3. **Power to modify certain fundamental rights in their application to members of the naval forces.**—Subject to the provisions of any law for the time being in force relating to the naval forces or to any part thereof, the Central Government may, by notification in the Official Gazette, make rules—

(*a*) restricting, to such extent and in such manner as may be necessary, the right of any member of the naval forces—

(*i*) to be a member of, or to be associated in any way with, any trade union or labour union, or any class of trade unions or labour unions, or any society, institution or association, or any class of societies, institutions or associations;

(*ii*) to attend or address any meeting or to take part in any demonstration organized by any body of persons for any political or other purpose;

(*iii*) to communicate with the press or to publish or cause to be published any book, letter or other document;

(*b*) providing for the manner in which and the period for which any member of the naval forces may be taken into, and detained in, naval custody, pending the trial of any such member by a competent naval authority for any offence committed by him.

4. **Continuation of existing rules, regulations, etc.**—All rules, regulations, orders, directions and instructions relating to members of the naval forces or any part thereof, made or issued before the commencement of this Act by or under the authority of the Central Government or of the Commander-in-Chief, Indian Navy, or by any other competent naval authority, shall, in so far as they relate to any of the matters dealt within this Act have effect as if they were rules made under this Act.

5. **Repeal of Ordinance XXI of 1950.**—(1) The Naval Forces (Miscellaneous Provisions) Ordinance, 1950 (XXI of 1950) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

NOTIFICATION. 47

No. L.D. 1775—Legis. 2-50-35, Bangalore, dated 31st August 1950.

Ordered that the following Salaries of Ministers (Amendment) Act, 1950 (LIX of 1950), published in the *Gazette of India*, Part II, Section 1, dated the 23rd August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

Received Assent on 22nd August 1950.

THE SALARIES OF MINISTERS (AMENDMENT) ACT, 1950.

(LIX OF 1950).

AN

ACT

to amend the Salaries of Ministers Act, 1947.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Salaries of Ministers (Amendment) Act, 1950.

2. *Amendment of section 2, Act LIII of 1947.*—In section 2 of the Salaries of Ministers Act, 1947 (hereinafter referred to as the said Act), clause (*a*) shall be omitted.

3. *Substitution of new section for section 3, Act LIII of 1947.*—For section 3 of the said Act, the following section shall be substituted, namely:—

"3. *Salaries and allowances of Ministers.*—There shall be paid to each Cabinet Minister a salary of three thousand rupees *per mensem* and a sumptuary allowance of five hundred rupees *per mensem*, to each Minister of State a salary of three thousand rupees *per mensem*, and to each Deputy Minister a salary of two thousand rupees *per mensem*."

4. *Amendment of Section 4, Act LIII of 1947.*—In sub-section (*1*) of section 4 of the said Act, for the words "Each Minister", the words "Each Cabinet Minister" shall be substituted.

5. *Repeal of Ordinance XX of 1950.*—The Salaries of Ministers (Amendment) Ordinance, 1950 (XX of 1950), is hereby repealed.

K. V. K. SUNDARAM, *Secy.*

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PART IV 48

Section I-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1650—Legis. 4-50-41, dated Bangalore, 21st August 1950.

Ordered that the following Notifications No. S.R.O. 125, dated 22nd July 1950 of the Ministry of Defence—The Army Act Rules, 1950, published in the *Gazette of India*, Part II, Section 4, dated the 22nd July 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF DEFENCE.

New Delhi, the 22nd July 1950.

S.R.O. 125.—In exercise of the powers conferred by section 21, sub-section (4) of section 102 and section 191 of the Army Act, 1950 (XLVI of 1950), the Central Government is pleased to make the following rules :—

1. *Short Title.*—These rules may be called the Army Act Rules, 1950.

2. *Definition.*—In these rules 'the Act' means the Army Act, 1950,

3. *Unauthorised Organisations.*—No person subject to the Act shall, without the express sanction of the Central Government,—

(i) be a member of, or be associated in any way with, any society, institution or organization that is not recognised as part of the Armed Forces of the Union; or

(ii) be a member of, or be associated in any way with, any trade union or labour union, or any class of trade or labour unions.

4. *Political and other Activities.*—(1) No person subject to the Act shall attend, address, or take active part in any meeting or demonstration held for party or political purposes, or belong to or join, or subscribe in aid of, any political association or movement.

(2) No person subject to the Act shall issue an address to electors or in any other manner publicly announce himself or allow himself to be publicly announced as a candidate or as a prospective candidate for election to Parliament, Legislature of a State, local authority, or other public body, or act as a member of a candidate's election committee, or in any way actively prosecute a candidate's interests.

5. *Communications to the Press, Lectures, etc.*—No person subject to the Act shall—

(i) publish in any form whatever or communicate directly or indirectly to the Press any matter on a service subject or containing any service information, or publish or cause to be published any book or letter or article or other document on such matter or containing such information, without the prior sanction of the Commander-in-Chief or any other officer specified by him in this behalf; or

(ii) deliver a lecture or wireless address on a service subject or containing any information or views on any service subject without the prior sanction of the Commander-in-Chief or any other officer specified by him in this behalf.

Explanation.—For the purpose of this rule, service information and service subject mean information or subject as the case may be, concerning the forces.

6. *Release.*—A person subject to the Act may be released from the service in accordance with the Release Regulations for the Army or such other regulations as may be made from time to time.

7. *Authorised Deductions.*—The following deductions may be made from the pay, non-effective pay and all other emoluments payable to a person subject to the Act,—

(i) upon the general or special order of the Central Government, any sum required to meet any public claim there may be against him, any regimental debt that may be due from him or any regimental claim;

(ii) any sum required to meet compulsory contributions to any Provident Fund, or any Benevolent or other fund approved by the Central Government.

Explanation.—(i) "Public claim" means any public debt or disallowance including any over-issue made through an error as to the facts; or a deficiency or irregular expenditure of public money or store of which, after due investigation, no explanation satisfactory to the Central Government is given by the person who is responsible for the same.

(ii) The aforesaid deductions shall be in addition to those specified in the Act.

8. *Prescribed Officers Under Section 93 of the Act.*—The prescribed officers for purpose of section 93 of the Act shall be, in the case of an officer, the Commander-in-Chief and, in the case of a person other than an officer, the officer empowered to convene a court-martial for his trial.

9. *Delay Report.*—In cases of delay between the committal of a person into custody and the ordering of the assembly of a court-martial or a summary disposal of the charge, a special report as required in Section 103 of the Act shall be forwarded by the commanding officer to the officer empowered to convene a court-martial for his trial.

10. *Prescribed Officer Under Section* 164(2).—The prescribed officer for purposes of sub-section (2) of Section 164 shall be the officer superior in command to the one who confirmed the finding or sentence of the court-martial.

11. *Prescribed Officer Under Section* 165.—The prescribed officer for purposes of Section 165 shall be the confirming officer or any officer superior in command to him and in the case of a Summary Court-martial any officer superior in command to the officer who held the Summary Court-martial provided such superior officer has power not less than a Brigade Commander.

12. *Continuation of certain rules, regulations, etc.*—All rules, regulations, orders, directions and instructions made or issued before the commencement of the Act by or under the authority of the Central Government or of the Commander-in-Chief or by any other competent authority, in so far as they—

(*a*) provide for the manner in which and the period for which any person belonging to the regular Army may be taken into and detained in military custody;

(*b*) prescribe the procedure to be observed at the trial of offences committed by persons belonging to the regular army by any competent military authority;

(*c*) regulate the appearance of legal practitioners at any trial held by any authority as is referred to in clause (*b*);

and all the Indian Army Act Rules made under the Indian Army Act, 1911, shall, in so far as they are not inconsistent with the provisions of the Act, continue in force and be deemed to be rules made under the Act.

[No. 15/E.]

H. M. PATEL, Secy.

NOTIFICATION.

No. L. D. 1651—Legis. 4-50-42, dated Bangalore, 21st August 1950.

Ordered that the following Notification No. S.R.O. 126, dated 22nd July 1950 of the Ministry of Defence—The Air Force Act Rules, 1950, published in the *Gazette of India*, Part II, Section 4, dated the 22nd July 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF DEFENCE.

New Delhi, the 22nd July 1950.

S.R.O. 126.—In exercise of the powers conferred by Section 21, sub-section (4) of Section 103 and Section 189 of the Air Force Act, 1950 (XLV of 1950), the Central Government is pleased to make the following rules:—

1. *Short Title.*—These rules may be called the Air Force Act Rules, 1950.

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2. *Definitions.*—In these rules—

(i) "the Act" means the Air Force Act, 1950;

(ii) "minor punishment" means punishment inflicted without the intervention of a court-martial under Section 82 or Section 86 of the Act.

3. *Unauthorised Organisations.*—No person subject to the Act shall, without the express sanction of the Central Government—

(i) be a member of, or be associated in any way with, any society, institution or organisation that is not recognised as part of the Armed Forces of the Union; or.

(ii) be a member of, or be associated in any way with, any trade union or labour union, or any class of trade or labour unions.

4. *Political and other activities.*—(1) No person subject to the Act shall attend, address, or take active part in any meeting or demonstration held for party or political purposes, or belong to or join, or subscribe in aid of any political association or movement.

(2) No person subject to the Act shall issue an address to electors or in any other manner publicly announce himself or allow himself to be publicly announced as a candidate or as a prospective candidate for election to Parliament, Legislature of a State, local authority, or other public body, or act as a member of a candidate's election committee, or in any way actively prosecute a candidate s interests.

5. *Communications to the Press, Lectures, etc.*—No person subject to the Act shall—

(i) publish in any form whatever or communicate directly or indirectly to the press any matter on a service subject or containing any service information, or publish or cause to be published any book or letter or article or other document on such matter or containing such information, without the prior sanction of the Commander-in-Chief or any other officer specified by him in this behalf, or

(ii) deliver a lecture or wireless address on a service subject or containing any information or views on any service subject without the prior sanction of the Commander-in-Chief or any other officer specified by him in this behalf.

Explanation.—For the purpose of this rule, service information and service subject mean information or subject, as the case may be, concerning the forces.

6. *Release.*—A person subject to the Act may be released from the Air Force in accordance with the Release Regulations for the Air Force or such other regulations as may be made from time to time.

7. *Authorised deductions.*—The following deductions may be made from the pay, non-effective pay and all other emoluments payable to a person subject to the Act—

(i) upon the general or special order of the Central Government, any sum required to meet any public claim there may be against him, any service debt that may be due from him or any service claim;

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(ii) any sum required to meet compulsory contributions to any Provident Fund or any Benevolent or other fund approved by the Central Government.

Explanations.—(i) 'Public claim' means any public debt or disallowance including any over-issue made through an error as to the facts; or a deficiency or irregular expenditure of public money or store of which, after due investigation, no explanation satisfactory to the Central Government is given by the person who is responsible for the same.

(ii) The aforesaid deductions shall be in addition to those specified in the Act.

8. *Limitation of powers of minor punishment according to rank.*—(1) A commanding officer, if of the rank of Squadron Leader or above, may, without the intervention of a court-martial, award the minor punishments specified in Section 82 of the Act.

(2) A commanding officer, or other officer exercising the powers of a commanding officer, if of the rank of Flight Lieutenant, shall have the powers of punishment specified in the said Section, provided that he shall not award detention or field punishment for a period exceeding 7 days.

(3) A commanding officer, or other officer exercising the powers of a commanding officer, who is below the rank of Flight Lieutenant, shall have the powers of punishment specified in the said Section, except the following, in the case of non-commissioned officers, namely.—

(a) severe reprimand;

(b) deprivation of acting rank; and

(c) penal deduction under clause (g) of section 92;

and, in the case of persons below non-commissioned ranks, forfeiture of badge pay:

Provided that such officer shall not award detention or field punishment for a period exceeding 7 days, or to the camp for a period exceeding 10 days.

(4) Notwithstanding anything contained in sub-rules (2) and (3), a superior officer may, if he considers desirable, restrict the powers under the said sub-rules of a commanding officer, or other officer below the rank of Squadron Leader exercising the powers of a commanding officer, to any extent that he thinks fit.

9. *Powers of minor punishment of Subordinate Commanders.*—(1) An officer other than a commanding officer specified by the Commander-in-Chief with the consent of the Central Government in pursuance of Section 82 of the Act, hereinafter referred to as 'subordinate commander', may award minor punishments subject to the provisions of sub-rule (2).

(2) The subordinate commanders specified in the first column of the table below, if authorised in this behalf by the commanding officer or other officer exercising the powers of a commanding officer, may award to the persons specified in the second column the minor punishments specified in the third column provided that, save when an officer of the rank of Flight Lieutenant is officiating in an appointment normally held by an officer of higher rank, or when no subordinate commander of

the rank of Squadron Leader or above is available, an officer of the rank of Flight Lieutenant shall not be authorised to award the punishment of fine.

TABLE.

Authority competent to award punishment	Person who may be punished	Punishment
Officer of the rank of Flight Lieutenant or above	Non-Commissioned Officer	(i) Reprimand. (ii) Admonition
	Airman below non-commissioned rank.	(i) Confinement to the Camp for a period not exceeding 7 days. (ii) Extra Guards or duties not exceeding 3 in number. (iii) Admonition. (iv) Fine not exceeding 4 days' pay provided that an Airman shall not be fined more than 7 days' pay in any one month.
Officer below the rank of Flight Lieutenant.	Non-Commissioned officer ...	Admonition.
	Airman below non-commissioned rank.	(i) Confinement to the Camp for a period not exceeding 3 days. (ii) Extra guards or duties not exceeding 3 in number. (iii) Admonition.

10. *Summary disposal of charge against officer and warrant officers.*—(1) When an officer or warrant officer is remanded for a summary disposal of the charge against him, a copy of the summary of evidence shall be delivered to him free of charge as soon as practicable after its preparation, and in any case not less than forty-eight hours before such disposal.

(2) The officer dealing with the case summarily under Section 86 of the Act, shall hear the witnesses, if any, in the presence of the accused, but may dispense with such hearing, if the accused person consents in writing thereto.

(3) If the accused person demands that the evidence against him be taken on oath, such evidence shall be so taken. The oath or affirmation shall be administered by the officer dealing with the case summarily.

(4) The accused may put questions in cross-examination to any witness, call any witnesses and make a statement in his defence.

11. *Prescribed officers under Section 94 of the Act.*—The prescribed officers for purposes of Section 94 of the Act shall be, in case of an officer or warrant officer, the Commander-in-Chief and, in the case of a person other than an officer or warrant officer, the officer empowered to convene a court-martial for his trial.

12. *Delay report.*—In cases of delay between the committal of a person into custody and the ordering of the assembly of a court-martial or a summary disposal of the charge, a special report as required in Section 104 of the Act shall be forwarded by the commanding officer to Air Headquarters, with a copy to the controlling Command Headquarters.

13. *Continuation of certain rules, regulations, etc.*—All rules, regulations, orders, directions and instructions made or issued before the commencement of the Act by

or under the authority of the Central Government or of the Commander-in-Chief or by any other competent authority, in so far as they—

(*a*) provide for the manner in which and the period for which any person belonging to the Air Force may be taken into and detained in Air Force custody ;

(*b*) prescribe the procedure to be observed at the trial of offences committed by persons belonging to the Air Force by any competent Air Force authority ;

(*c*) regulate the appearance of legal practitioners at any trial held by any such authority as is referred to in clause (*b*) ;

and all the Indian Air Force Act Rules (other than rules 17, 18 and 19) made under the Indian Air Force Act, 1932, shall, in so far as they are not inconsistent with the provisions of the Act, continue in force and be deemed to be rules made under the Act.

[No. 16/E.]

H. M. PATEL, Secy.

NOTIFICATION.

No. L.D. 1652—Legis. 6-50-31, dated Bangalore, 21st August 1950.

Ordered that the following Notification No. S.R.O. 131, dated 22nd July 1950, of the Ministry of Defence under the Indian Army Act, 1950, published in the *Gazette of India*, Part II, Section 4, dated the 22nd July 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF DEFENCE.

New Delhi, the 22nd July 1950.

S. R. O. 131.— In exercise of the powers conferred by sub-section (1) of Section 5 of the Army Act, 1950, (XLVI of 1950), and in supersession of the notification of the Government of India in the Ministry of Defence No. 11/E., dated the 1st April 1950, the Central Government is pleased to direct that all persons belonging to the Land Forces of the States of Hyderabad, Mysore and Travancore-Cochin shall be placed at the disposal of the Central Government.

[No. 21/E.]

H. M. PATEL, Secy.

NOTIFICATION. S S

No. L.D. 1655—Legis. 6-50-32, dated Bangalore, 21st August 1950.

Ordered that the following Notification No. D. 4614-CI—50 dated 18th July 1950, of the Ministry of Finance (Communications) amending the Rules for the guidance of depositors in the Post Office Savings Banks published in the *Gazette of India*, Part I, Section 1, dated the 29th July 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF FINANCE (COMMUNICATIONS).

New Delhi, the 18th July 1950.

No. D. 4614-CI/50.—The Central Government is pleased to direct that the following further amendments shall be made in the Rules for the guidance of depositors in the Post Office Savings Banks, namely :—

In the said Rules—

I. After rule 5, the following heading and rule shall be inserted, namely :—

"ACCOUNTS IN JOINT NAMES

5-A. An account may be opened in the joint names of two persons (who are not minors) to be payable to—

(i) both the depositors, jointly, or (ii) either."

II. For sub-rule (1) of rule 6, the following sub-rule shall be substituted, namely :—

"(1) No person shall have more than one account opened whether in his own name or jointly with another."

III. After rule 11 the following rule shall be inserted, namely :—

"11-A. The limit of Rs. 10,000 mentioned in rules 10 and 11 does not apply to joint accounts opened under rule 5-A. The limit in respect of such an account will be Rs. 20,000."

IV. To rule 17, the following shall be added, namely :—

"In the case of an account to be opened in the joint names of two persons, the following declaration shall be signed by the intending depositors :

'We declare that the Post Office Savings Bank Rules have been read by/to us and that we accept them as binding upon us. We also declare that neither of us is already a depositor in a Post Office Savings Bank. We further declare that the balance at credit of our account will be payable to both/either of us and in the case of death of either of us to the survivor, or to the heirs and legal representatives of the last survivor in the case of death of both of us, as provided in rule 37-A.'"

V. In rule 29, after the letters and figures "Rs. 10,000", the following shall be inserted, namely :

"or in the case of a joint account opened under rule 5-A any sum in excess of Rs. 20,000."

VI. After Note 6 below rule 31, the following Note shall be added, namely :—

"NOTE 7.—In the case of an account opened in the joint names of two persons, the application for transfer should be signed by both the depositors or by the survivor in case of death of either of them."

VII. After rule 37, the following rule shall be inserted, namely.—

"37-A. The balance at credit of an account opened in the joint names of two persons is ordinarily payable to the surviving depositors when one of the depositors is dead and the Head Postmaster of the office under which the account stands opened will issue orders to treat the account as individual account of the surviving depositor after the last day of the month in which the joint depositor died. The account will thereafter be governed by the rules applicable to similar accounts opened by single depositor and the balance in excess of the permissible limit will be withdrawn by the surviving depositor ; otherwise it will not earn interest. When both the joint holders are dead before the said orders of the postmaster are issued, the balance at credit of the account will be paid under the orders of the Postmaster-General to the heirs and legal representative of the last surviving joint depositor."

A. C. BOSE, Dy. Secy.

NOTIFICATION.

No. L.D. 1688—Legis. 4-50-48, Bangalore, dated 24th August 1950.

Ordered that the accompanying Notification No. S. R. O. 292, dated 25th July 1950, of the Ministry of Finance (Department of Economic Affairs) amending the Rehabilitation Finance Administration Rules, 1948, published in the *Gazette of India*, Part II, Section 3, dated the 29th July 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF FINANCE.

Department of Economic Affairs.

New Delhi, the 25th July 1950.

S. R. O. 292.—In exercise of the powers conferred by section 23 of the Rehabilitation Finance Administration Act, 1948 (XII of 1948), the Central Government

is pleased to direct that the following amendments shall be made in the Rehabilitation Finance Administration Rules, 1948, namely :—

(1) For rule 2 in the saide rules the following rule shall be substituted, namely :—

"2. *Regional Committees.*—(1) A Regional Committee constituted under sub-section (1) of section 5 shall consist of—

(*a*) the manager of the branch of the Administration for advising which the Regional Committee is constituted, *ex-officio*, who shall also preside at meetings of the Committee;

(*b*) such other members not exceeding six in number as may be nominated by the Central Government;

(2) A member other than the *ex-officio* member shall hold office for a term of two years from the date of his nomination but shall be eligible for re-nomination.

(3) A member other than the *ex-officio* member may resign his membership by writing under his hand addressed to the Central Government and shall thereupon cease to be a member."

(2) For rule 4 the following rule shall be substituted, namely :—

"4. *Certain persons to take part in deliberations of Advisory Board and Regional Committees.*—(1) The Chief Administrator and any or all non-official members of the Administration may attend any meeting of the Advisory Board and take part in its deliberations but neither the Chief Administrator nor any such non-official member shall be treated as a member of the Board or shall have the right of vote.

(2) A non-official member of the Administration appointed by the Central Government in this behalf may attend any meeting of a Regional Committee and take part in its deliberations but he shall not be treated as a member of the Committee and shall not have the right to vote."

(3) Rule 8 shall be omitted.

(4) In rule 15 for the words "the Central, Provincial, or State Government as the case may be", the words "the Central Government or a State Government, as the case may be" shall be substituted.

(No. F.-10(17)-F.-1/50)

S. K. SEN, Dy. Secy.

NOTIFICATIONS

No. L.D. 1689—Legis. 4-50-44, Bangalore, dated 24th August 1950.

Ordered that the accompanying Notification No. S. R. O. 298, dated 19th July 1950, of the Ministry of Communications further amending the Indian Telegraph Rules, 1932, published in the *Gazette of India*, Part II, Section 3, dated the 29th July 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMUNICATIONS.

Posts and Telegraphs.

New Delhi, the 19th July 1950.

S. R. O. 298.—In exercise of the powers conferred by sections 4 and 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Telegraph Rules, 1932, namely :—

In sub-rule (2) of rule 452-A of the said Rules the following sub-rule shall be inserted in the end, namely :—

(2-A) "The charges for a telephone connection beyond a radial distance of 4 miles from an exchange shall be the same as for a telephone connection within a radial distance of 4 miles *plus* such additional charges as the Director-General or any officer authorised by him in this behalf shall prescribe."

[No. R-3-127/49.]

K. V. VENKATACHALAM, Dy. Secy.

NOTIFICATION

No. L.D. 1690—Legis. 4-50-45, Bangalore, dated the 24th August 1950.

Ordered that the accompanying Notification No. S.R.O. 149, dated 22nd July 1950, of the Ministry of Defence, amending the territorial Army Rules, 1948, published in the *Gazette of India*, Part II, Section 4, dated the 5th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

S.R.O 149.—In exercise of the powers conferred by Section 14 of the Territorial Army Act, 1948 (LVI of 1948), the Central Government is pleased to direct that the following amendment shall be made in the Territorial Army Rules, 1948, namely—

For clause (*b*) of Rule 20(1) of the said Rules, the following clause shall be substituted, namely—

"(*b*) Every such person who is appointed to an urban unit shall be liable to undergo annual training for a period of not less than 30 days and not more than 60 days, during which period he may, under the orders of the Officer Commanding the Area in which the unit is located, be embodied for an annual camp of not less than four consecutive days. The period spent in the camp may, however, be extended up to a maximum of fourteen consecutive days in all, provided that in so far as the additional period beyond the initial period of four days is concerned, the individual volunteers and obtains the written consent of his employer, if any."

The annual musketry course as laid down in Regulations may be fixed at any time during the period prescribed for annual training.

(Case No. 47588/GS/TA.2).

H. M. PATEL,
Secretary.

NOTIFICATION. 60

No. L.D. 1691—Legis. 6-50-33, Bangalore, dated the 24th August 1950.

Ordered that the accompanying Notification No. S. R. O. 307, dated 29th July 1950 of the Ministry of Law under the Representation of the People Act, 1950 published in the *Gazette of India*, Part II, Section 3, dated the 29th July 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISRTY OF LAW.

NOTIFICATION.

New-Delhi, the 29th July 1950

S.R.O. 307.—In exercise of the powers conferred by sub-section (4) of section 20 of the Representation of the People Act, 1950 (Act XLIII of 1950), the President, in consultation with the Election Commission, is pleased to declare the following offices to be offices to which the provisions of the said sub-section apply, namely:—

A. As respects any period or date after the commencement of the Constitution:

1. The President of India.
2. The Vice-President of India.
3. Cabinet Ministers of the Union.
4. Ministers of State of the Union.
5. Deputy Ministers of the Union.
6. The Speaker of the House of the People.
7. The Deputy Speaker of the House of the People.
8. The Deputy Chairman of the Council of States.
9. Governors of States.

B. As respects any period or date before the commencement of the Constitution:

1. The Governor-General of India.
2. Members of the Governor-General's Executive Council or Council of Ministers.
3. Ministers of State of the Dominion.
4. Deputy Ministers of the Dominion.
5. The President of the Constituent Assembly of India.
6. The Speaker of the Dominion Legislature.
7. The Deputy Speaker of the Dominion Legislature.
8. Governors of Provinces.

[No. F. 8(1)50 C.]

K. V. K. SUNDARAM,
Secretary.

NOTIFICATION.61

No. L.D. 1759—Legis. 6-50-35, Bangalore, dated 30th August 1950.

Ordered that the following Notification No. L.R. 91(2), dated 8th August 1950, of the Ministry of Labour, published in the *Gazette of India*, Part I, Section 2, dated the 8th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF LABOUR.

NOTIFICATION.

New Delhi, the 8th August 1950.

No. L.R. 91(2).—Mr. V. S. Varde, Secretary, All-India Industrial Tribunal (Bank Disputes) Bombay, is, until further orders, appointed as Registrar of the Labour Appellate Tribunal, constituted under the Notification of the Government of India in the Ministry of Labour No. L.R. 91(2)/I, dated the 8th August, 1950.

K. N. SUBRAMANIAN, *Joint Secy.*

NOTIFICATION.

No. L.D. 1760—Legis. 4-50-49, Bangalore, dated 30th August 1950.

Ordered that the following Notification No. 26—M.(E.), dated 31st July 1950, of the Ministry of External Affairs, amending the Indian Emigration Rules, 1923, published in the *Gazette of India*, Part I, Section 1, dated the 12th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF EXTERNAL AFFAIRS.

New Delhi, the 31st July 1950.

No. 26/M(E).—In exercise of the powers conferred by section 24 of the Indian Emigration Act, 1922 (VII of 1922), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Emigration Rules,

1923, the same having been previously published, as required by sub-section (1) of the said section, namely :—

I. In the said Rules :—

(1) For the word "Province" or "Provinces," wherever it occurs, the word "State" or "States" respectively shall be substituted.

(2) In rule, 62 and sub-rule (1) of rule 66, for the words "British India," the word "India" shall be substituted.

(3) In sub-rule (1) of rule 64, for the words "rupee one," the words "rupees five" shall be substituted.

(4) In sub-rule (1) of rule 64-A, for the words "the Protector is satisfied that the licence has been guilty of misconduct," the words "the Protector is satisfied that the licencee has been guilty of a breach of any of the conditions of the licence," shall be substituted.

(5) In rule 69, for the words "Provinces of Bombay and Sind," the words "States of Bombay, West Bengal and Madras" shall be substituted.

II. —For Forms Nos. 16 and 17 set out in the Schedule to the said Rules, the following forms shall be substituted, namely :—

"FORM No. 16.

(*See rule* 62).

Form of Licence for Passage Broker.

No.

Mr./Messrs. is/are hereby authorised to engage in assisting persons to emigrate for the purposes of skilled work by obtaining, or helping to obtain, for them the necessary passages from India.

This licence is granted subject to the conditions specified in the Schedule attached hereto and expires on the day of 19 .

Dated at Protector of Emigrants.

THE SCHEDULE.

1. The Licence shall expire on the day of 19 ; but may be renewed annually on application to the Protector of Emigrants made at least two months before the date of the expiry and on payment of a renewal fee of Rs. 10.

2. The Licencee shall not collect as professional charges for services rendered by him to the person he assists to emigrate, a sum in excess of the amount which will be notified by the Protector of Emigrants.

3. The Licencee shall not demand or recover from the persons he assists to emigrate any amount in excess of the Schedule charges of a passage ticket, passport, etc., whenever they are obtained by him for the persons concerned.

4. The Licence is liable to be cancelled by the Protector of Emigrants for a breach of any of these conditions or of any of the provisions of Indian Emigration Act, or of the rules made thereunder.

5. The Licencee shall be held responsible for all acts committed by his agent,

FORM No. 17 63

(*See rule* 62).

Form of Licence for Agent of Passage Broker.

No.

Mr./Messrs. described hereunder is licenced to be an agent of who is/are in possession of a valid Licence authorising him/them to be engaged in assisting persons to emigrate for the pruposes of skilled work as a passage broker.

This Licence is granted subject to the conditions specified in the Schedule attached hereto and expires on the day of 19 . Date at Protector of Emigrants.

Name of Agent	Father's name	Age	Caste	Religion	Height	Distinguishing Marks	Native of village, town and district

THE SCHEDULE.

1. The Licence shall expire on the day of 19 , but may be renewed annually on application to the Protector of Emigrants and on payment of a renewal fee of rupee one.

2. The Licencee shall not collect as professional charges for services rendered by him to the person he assists to emigrate, a sum in excess of the amount which will be notified by the Protector of Emigrants.

3. The Licencee shall not demand or recover from the persons he assists to emigrate any amount in excess of the Schedule charges of a passage ticket, passport, etc., whenever they are obtained by him for the persons concerned.

4. The Licence is liable to be cancelled by the Protector of Emigrants for a breach of any of these conditions or of any of the provisions of the Indian Emigration Act, or of the rules made thereunder".

S. N. HAKSAR,

Controller-General of Emigration and Joint Secy.

NOTIFICATION.64

No. L.D. 1779—Legis. 4-50-47, Bangalore, dated 31st August 1950.

Ordered that the accompanying Notification No. S.R.O. 332, dated 26th July 1950 of the Ministry of Communications amending the Indian Aircraft Rules, 1937, published in the *Gazette of India*, Part II, Section 3, dated the 5th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMUNICATIONS.

New Delhi, the 26th July 1950.

S.R.O. 332.—In exercise of the powers conferred by section 5 of the Indian Aircraft Act, 1934 (XXII of 1934), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Aircraft Rules, 1937, the same having been previously published as required by section 14 of the said Act, namely :—

In the said Rules, for rule 13 the following rules shall be substituted, namely :—

"13. *Photography at aerodromes or from aircraft.*—No person shall take, or cause or permit to be taken, at a Government aerodrome or from an aircraft, any photograph except in accordance with, and subject to the terms and conditions of a permission in writing granted by the Director-General.

13A. *Carriage of photographic apparatus in aircraft.*—(1) No camera or other apparatus for recording photographic impressions shall be carried in an aircraft except where—

(*a*) the permission specified in Rule 13 to take photographs from the aircraft has been granted, or

(*b*) the camera or such apparatus or the bag containing cameras or such apparatus is kept in the custody of the person in charge of the aircraft and beyond the access of any other person during flight.

(2) Any customs officer, any aerodrome officer and any other person specially authorised in this behalf by the Director-General may search any aircraft or any person therein and may without prejudice to any other remedy seal any camera or other apparatus for recording photographic impressions, or a bag containing cameras or such apparatus, which in his opinion is being or is about to be carried in the aircraft in contravention of sub-rule (1) and no person shall tamper with any such seal until the camera or apparatus or bag is removed from the aircraft."

[No. 10-A/4-49.]

P. K. ROY, *Dy. Secy.*

NOTIFICATION.

No. L.D. 1780—Legis. 4-50-16, Bangalore, dated 31st August 1950.

Ordered that the accompanying Notification No. S.R.O. 310, dated 29th July 1950 of the Ministry of Home Affairs amending the Indian Arms Rules, 1924, published in the *Gazette of India*, Part II, section 3, dated the 5th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF HOME AFFAIRS.

New Delhi, the 29th July 1950.

S.R.O. 310.—In exercise of the powers conferred by section 17 of the Indian Arms Act, 1878 (XI of 1878), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Arms Rules, 1924, namely :—

In rule 7 of the said Rules,

Clause (b) of sub-rule (1) and sub-rule (2) shall be omitted.

[No. 9/101/49-Police-I.]

U. K. GHOSHAL, *Dy. Secy.*

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PART IV

Section 2-B 66

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. T. 4532—R.T. 47-50-2, dated Bangalore, 1st September 1950.

The Government of India have issued orders abolishing Petrol Rationing throughout Mysore State from 1st September 1950. The Mysore Motor Spirit Rationing Order, 1941, issued with Notification No. P. 609—Legis. 2-41-16, dated 9th August 1941 and all amendments thereto, therefore stand cancelled with effect from 1st September 1950.

By Order of His Highness the Maharaja,

L. MUNISWAMY,

Secretary to Government,
Local Self-Government Department.

CORRIGENDUM.

No. L.S. 1784—L.W. 141-47-7, dated Bangalore, 30th August 1950.

In the Mysore Payment of Wages Rules, 1948, published under Notification No. L.S. 382—L.W. 141-47-5, dated 12th August 1949, in Part IV—Section 2B of the *Mysore Gazette*, dated 18th August 1949,

(i) in rule 19, *for* "Mysore Factories Rules, 19...." *read* "Mysore Factories (Amended) Rules, 1936", and

(ii) in Form V, in items 15 and 17, omit the word "Provincial", and in item 19, omit the words "in Bombay to the Court of Small Causes and elsewhere."

No. E. 5552—B R. 3-50-2, dated Bangalore, 1st September 1950.

In exercise of the powers conferred by Sub-section (2) of section 1) of the Act for the Prohibition of Beggary, 1944, (Mysore Act No. XXXIII of 1944), His Highness the Maharaja of Mysore is pleased to specify the 1st day of September 1950, as the date from which all the provisions of the said Act other than section 1, shall apply to that part of the City of Bangalore which, prior to the 8th day of December 1949, was known as the Civil Station of Bangalore as constituted under the Bangalore Municipal Law, 1897.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

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PART IV

Section I-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1644—Legis. 4-50-40, Bangalore, dated 21st August 1950.

Ordered that the accompanying Notifications No. S.R.O. 280 and 281, dated 18th July 1950 of the Ministry of Communications amending the Indian Post Office Rules, 1933, published in the *Gazette of India*, Part II, Section 3, dated the 22nd July 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF COMMUNICATIONS.

POSTS AND TELEGRAPHS

New Delhi, the 18th July 1950

S.R.O. 280.—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Post Office Rules, 1933, namely :—

In the said Rules—

(1) To sub-rule (2) of rule 2 the following proviso shall be added, namely :—

"Provided that in respect of inland registered newspapers posted at any post office under the Government of India but requiring air mail transmission only between Calcutta and Gauhati, a special surcharge shall be levied at the rate of 3 pies for every 2½ tolas or part thereof."

(2) For rule 2-A, the following rule shall be substituted, namely :—

"2-A—On parcels posted for transmission by air, the following inclusive rates of postage and air mail fees shall be chargeable in addition to the registration fee on registered parcels :—

For a weight not exceeding 20 tolas.....ten annas.

For every 20 tolas, or fraction thereof exceeding 20 tolas..... ten annas.

Provided that for parcels requiring air transmission only between Calcutta and Gauhati the following surcharge shall be levied in addition to the ordinary postage :—

For a weight not exceeding 40 tolas.....Four and a half annas.

For every 40 tolas or fraction thereof exceeding 40 tolas..... Four and a half annas."

[No. R-1-1/49.]

S.R.O. 281.—In exercise of the powers conferred by section 7 of the Indian Post Office Act, 1898 (VI of 1898), the Central Government is pleased to direct that with effect from the 16th July 1950, the following further amendments shall be made in the Indian Post Office Rules, 1933, namely :—

In the said Rules—

In rule 4—

(*a*) After the heading "*Business Reply Envelopes*" the following shall be inserted, namely :—

"*Local delivery Business Reply Envelopes*

For a weight not exceeding one tola.....one anna.

For every tola or fraction thereof, exceeding one tola.....one anna.

Other Business Reply Envelopes".

(*b*) After the heading "*Business Reply Cards*" the following shall be inserted, namely :—

"*Local Delivery Business Reply Cards*

For a single card.....six pies

Other Business Reply Cards".

[No. R-1-17/50.]

K. V. VENKATACHALAM, *Dy. Secy.*

NOTIFICATION. 70

No. L.D. 1645—Legis. 6-50-26, Bangalore, dated 21st August 1950.

Ordered that the accompanying Notification No. S.R.O. 282, dated 18th July 1950, of the Ministry of Communications under the Indian Aircraft Rules, 1937, published in the *Gazette of India*, Part II, Section 3, dated the 22nd July 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

New Delhi, the 18th July 1950

S.R.O. 282.—In supersession of the Notification of the Government of India in the late Communications Department No. V.26, dated the 14th July, 1938, and in exercise of the powers conferred by rule 160 of the Indian Aircraft Rules, 1937, the Central Government is pleased to exempt the Rulers of Indian States from the operation of the following rules to the extent indicated, namely :—

(1) Clause (*b*) of sub-rule (1) of rule 31 of the said rules, to the extent that no registration fee shall be charged in respect of one aircraft maintained for the personal use of the Ruler; and

(2) rule 48, to the extent that no fees shall be charged in respect of the issue, validation or renewal of a licence in favour of a Ruler.

[No. 10-A/31-50.]

P. K. ROY, *Dy. Secy.*

NOTIFICATION.

No. L.D. 1646—Legis. 6-50-27, Bangalore, dated 21st August 1950.

Ordered that the accompanying Notifications No. S.R.O. 283, 284 and 285, dated 12th July 1950, of the Ministry of Railways under the Indian Railways Act, 1890, published in the *Gazette of India*, Part II, Section 3, dated the 22nd July 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

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MINISTRY OF RAILWAYS

(RAILWAY BOARD)

New Delhi, the 12th July 1950

S.R.O. 283.—In exercise of the powers conferred by section 72A of the Indian Railways Act, 1890 (IX of 1890), the Central Government is pleased to approve the following forms of forwarding notes prescribed by all railway administrations.

(Approved by the Central Government for use on all Railways under section 72A of the Indian Railways Act, 1890).

GENERAL FORWARDING NOTE.

(To be used for regular traffic).

RAILWAY.

TO THE STATION MASTER RAILWAY STATION.

In consideration of the regular traffic in by coaching/mixed trains that I will be tendering for which I elect to pay at owner's risk rates, please accept this General Forwarding Note as valid for a period of six months from the date hereof.

Particulars of each consignment will be furnished in writing, if required, at the time of booking.

Dated Name of Sender

Signature of Sender

Accepted.

Date Station Master.

(Approved by the Central Government for use on all Railways under section 72A of the Indian Railways Act, 1890).

FORWARDING NOTE FOR GENERAL MERCHANDISE

RAILWAY.

TO THE STATION MASTER RAILWAY STATION.

Please receive the undermentioned consignment and forward by Goods and/or Mixed train*/Coaching and/or Mixed train* to Station on the

Railway as consigned below :— 72

By whom consigned.		To whom consigned.		Station to	No. of Articles.	Description and private marks.	Senders' weight.		Freight paid/to pay.
Name	Address	Name	Address				Mds.	Srs.	

I do hereby certify that I have satisfied myself that the description, marks and weight or quantity of goods consigned by me have been correctly entered in this Forwarding Note.

†(1) The consignment is in bad conditions* and /or defectively packed*, as follows :—

†(2) At my request the consignment is despatched in open.....

†(3) Alternative railway risk and owner's risk rates being available, I elect to pay the.....rate.

†(4) To be forwarded *via*.....(a dearer route) at my request.

†(5) The cheapest route being closed*/partially closed* to be forwarded *via*.....the next cheapest open route.

*Strike out where inapplicable.
†Strike out any clause inapplicable before signing this form.

Signature of sender or his agent.....

Dated.....195 Address.....

The attention of the sender or his agent is invited to the principal terms and conditions applying to the carriage of goods by railway which are set forth in the Railway's Goods and Coaching Tariffs and to the explanatory notes on the back hereof.

Note.—Additions or alterations made in the above entries must be signed (not initialled) by the sender or his agent.

Forwarding Note No.....Dated,.....

The form below to be filled up by the Railway staff only.

PARTICULARS OF WEIGHMENTS.

Checked by..... .....dated... .....195...

Weighed by..... .....dated..... .....195...

Loaded by..... ... .dated .....195...

Invoiced by.....dated..... .....195...

Risk.....

No. of Articles	Description	Weight	
		Mds.	Srs.

Description	No. of Articles	Marks	Actual Weight		Weight charged		Class	Rate per maund		Paid		To pay		Receipt No.	Invoice		Particulars of wagons			
			Mds.	Srs.	Mds.	Srs.		Rs.	as	Rs.	as	Rs.	as		No.	Date	No. and type	Owning Ry.	C.C.	Floor area

EXPLANATORY NOTES.

(1) A consignment not packed in accordance with railway rules or already in bad condition cannot be accepted for carriage unless the nature of the defect, *e.g.*, not packed as required by railway rules; 2 cases planks broken; 12 drums leaky, etc., etc., is recorded in clause (1) overleaf.

(2) When a sender desires to despatch in open vehicles or vessels, a consignment which would otherwise be carried in covered vehicles or vessels, he must enter the word 'vehicles' or 'vessels', as the case may be, in the appropriate place in clause (2) overleaf.

(3) When alternative railway risk and owners risk rates are quoted, the latter will apply unless the sender, in clause (3) overleaf, enters the words 'railway risk', when he will pay or engage to pay the higher charge and will receive a certificate to this effect.

(4) When a consignment is to be forwarded *via* other than the cheapest route at the sender's request, the route by which the consignment is to be forwarded must be recorded in clause (4) overleaf.

(5) When a consignment is to be forwarded *via* the next cheapest open route, the cheapest route being closed, or partially closed, the route by which the consignment is to be forwarded must be recorded in clause (5) overleaf.

NOTE.—All clauses and words which are inapplicable are to be struck out before the Forwarding Note is signed.

(Approved by the Central Government for use on all Railways under section 72A of the Indian Railways Act, 1890).

FORWARDING NOTE FOR ANIMALS/OR CONSIGNMENTS DECLARED TO CONTAIN ARTICLES ENUMERATED IN THE SECOND SCHEDULE TO THE RAILWAY ACT.

RAILWAY.

TO THE STATION MASTER RAILWAY STATION.

Please receive the undermentioned consignment and forward by Goods and/or Mixed train*/Coaching and/or Mixed train* to Station on the Railway as consigned below:—

By whom consigned		To whom consigned		Station to	No. of articles	Description and private marks	Sender's weight		Freight paid/to pay
Name	Address	Name	Address				Mds.	Srs.	

I do hereby certify that I have satisfied myself that the description, marks and weight or quantity of goods consigned by me have been correctly entered in this Forwarding Note.

†(1) I declare the value of these* elephant/horses, mules/camels/horned cattle donkeys/sheep/goats/dogs other animals and birds. to be Rs. per head and engage to pay the authorised percentage charge on excess value.

†(2) I declare that these packages contain.....of a value of Rs.....and engage*/do not engage* to pay the percentage charge on value for increased risk, as required by the Administration. (Packages should be specifically mentioned).

†(3) Alternative railway risk and owner's risk rates being available, I elect to pay the.....rate.

†(4) To be forwarded *via*.....(a dearer route) at my request.

†(5) The cheapest route being closed*/partially closed*, to be forwarded *via*.....the next cheapest open route.

*Strike out where inapplicable.

†Strike out any clause inapplicable before signing this form.

Signature of sender or his agents.....

Dated.....195 . Address.....

The attention of the sender or his agent is invited to the principal terms and conditions applying to the carriage of goods by railway which are set forth

in the Railway's Goods and Coaching Tariffs as and to the explanatory notes on the back hereof.

Note.—Additions or alterations made in the above entries must be signed (not initialled) by the sender or his agent.

Forwarding Note No....., dated.....

The form below to be filled up by the Railway staff only.

PARTICULARS OF WEIGHMENTS.

Checked by.....Dated.....195...
Weighed by.....Dated.....195...
Loaded by.....Dated.....195...
Invoiced by.....Dated.....195...
Risk.....

No. of articles	Description	Weight Mds.	Weight Srs.

Description	No. of Article	Marks	Actual weight Mds.	Actual weight Srs.	Weight charged Mds.	Weight charged Srs.	Class	Rate per maund Rs.	Rate per maund as	Paid Rs.	Paid as	To pay Rs.	To pay as	Receipt No.	Invoice No.	Invoice Date	Particulars of wagons No. and type	Particulars of wagons Owning Ry.	Particulars of wagons C. C.	Particulars of wagons Floor area

EXPLANATORY NOTES.

(1) The responsibility of a Railway Administration for loss, destruction, or deterioration of the animal (s), shall not exceed in the case of elephants Rs. 1,500 per head; horses Rs. 750 per head; mules, horned cattle or camels Rs. 200 per head; dogs, donkeys, goats, pigs, sheep or other animals or birds Rs. 30 per head, unless a higher value is declared in clause (1) overleaf and an engagement entered into to pay the authorised percentage charge on excess value. The entire clause should be struck out by the sender or his agent if no declaration of higher value is made. Railways will not be liable for damage or loss arising from fright or restiveness of any animal or bird irrespective of whether the sender has paid the percentage charge on value or not.

(2) Railways are not responsible for any loss, destruction or deterioration of or damage to a parcel or package containing any article (s) specified in the second schedule to the Indian Railways Act IX of 1890 whose value exceeds Rs. 300 per parcel or package unless the contents and value are declared and an engagement entered into to pay the authorised percentage on value charge, if required. The declaration of contents and value must be made in clause (2) overleaf and the word "engage" or the words "do not engage" struck out according to whether the consignment is to be booked by the railway with bailee's responsibility or otherwise. The administration hereby give notice that payment of percentage on value charge is required.

(3) When alternative railway risk and owner's risk rates are quoted, the latter will apply unless the sender, in clause (3) overleaf, enters the words

"railway risk", when he will pay or engage to pay the higher charge and will receive a certificate to this effect.

(4) When a consignment is to be forwarded *via* other than the cheapest route at the sender's request, the route by which the consignment is to be forwarded must be recorded in clause (4) overleaf.

(5) When a consignment is to be forwarded *via* the next cheapest open route, the cheapest route being closed or partially closed, the route by which the consignment is to be forwarded must be recorded in clause (5) overleaf.

NOTE.—All clauses and words which are inapplicable are to be struck out before the Forwarding Note is signed.

(Approved by the Central Government for use on all Railways under section 72A of the Indian Railways Act, 1890).

FORWARDING NOTE FOR DANGEROUS GOODS.

RAILWAY.

TO THE STATION MASTER RAILWAY STATION.

Please receive the undermentioned consignment and forward by Goods and/or Mixed train*/Coaching and/or Mixed train* to Station on the Railway as consigned below :—

By whom consigned		To whom consigned		Station to.	No. of article.	Description and private Market.	Sender's weight.		Frieght paid to pay.
Name	Address	Name	Address				Mds.	Srs.	

I do hereby certify that I have satisfied myself that the description, marks and weight or quantity of goods consigned by me have been correctly entered in this Forwarding Note.

I further declare that I accept responsibility for any consequences to the property of the aforesaid Railway Administration, or to the property of other persons, entrusted or to be entrusted to the Railway Administration for conveyance, or otherwise, which may be caused by the explosion of, or otherwise by, the said consignment, and that all risk and responsibility whether to the Railway Administration, to their servants or agents or to others, remain solely and entirely with me.

†(1) Alternative railway risk and owner's risk rates being available, I elect to pay the.....rate.

†(2) To be forwarded *via*..... (a dearer route) at my request.

†(3) The cheapest route being closed*/partially closed*, to be forwarded *via*.....the next cheapest open route.

---

*Strike out where inapplicable.

†Strike out any clause inapplicable before signing this form.

Signature of sender or his agent.....

Dated.....195 Address.....

The attention of the sender or his agent is invited to the principal terms and conditions applying to the carriage of dangerous goods by railway which are set forth in I.R.C.A. Red Tariff and to the explanatory notes on the back hereof.

Note.—Additions or alterations made in the above entries must be signed (not initialled) by the sender or his agent.

Forwarding Note No....., dated.....

The form below to be filled up by the Railway staff only.

PARTICULARS OF WEIGHMENT.

—	Description	Weight	
		Mds.	Srs.

Checked by.....Dated.....195

Weighed by.....Dated.....195

Loaded by.....Dated.....195

Invoiced by.....Dated.....195

Risk.....

Description	No. of articles	Marks	Actual weight		Weight charged		Class	Rate per maund		Paid		To pay		Receipt No.	Invoice		Particulars of wagons			
			Mds.	Srs.	Mds.	Srs.		Rs.	as	Rs.	as	Rs.	as		No.	Date	No. and type	Owning Ry.	C.C*	Floor area

EXPLANATORY NOTES.

(1) When alternative railway risk and owner's risk rates are quoted the latter will apply unless the sender, in clause (1) overleaf, enters the words 'railway risk' when he will pay or engage to pay the higher charge and will receive a certificate to this effect.

(2) When a consignment is to be forwarded *via* other than the cheapest route at the sender's request, the route by which the consignment is to be forwarded must be recorded in clause (2) overleaf.

(3) When a consignment is to be forwarded *via* the next cheapest open route, the cheapest route being closed, or partially closed, the route by which the consignment is to be forwarded must be recorded in clause (3) overleaf.

Note.—All clauses and words which are inapplicable are to be struck out before the Forwarding Note is signed.

[No. 4859-TC.]

New Delhi, the 14th July 1950

S.R.O. 284.—In pursuance of Section 32 of the Indian Railways Act, 1890 (IX of 1890), the Central Government is pleased to direct that the following amendment shall be made in the Ministry of Railways (Railway Board)'s notification No. 2146-TC, dated the 20th February, 1950, namely:—

For the entry appearing as "Exception" under item 4, the following shall be substituted, namely:—

Exception.

Gold booked from Oorgaum to Bombay 4 annas per 100 rupees.

[No. 2146-TC.]

ORDER

New Delhi, the 12th July 1950

S.R.O. 285.—In exercise of the powers conferred by sub-section (2) of section 74A of the Indian Railways Act, 1890 (IX of 1890), the Central Government is pleased to prescribe that the manner in which goods tendered to a railway administration for carriage by rail shall be packed shall be such as is described in the Indian Railway Conference Association Goods, Coaching and Red Tariffs, as for the time being in force.

[No. 4859-TC.]

S. S. RAMASUBBAN, *Secy.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore

NOTIFICATIONS.

(HOME DEPARTMENT).

No. H.B. 5529—Ptl. 5-50-3, dated Bangalore, the 8th September 1950.

Whereas in exercise of the powers conferred by clause (1) of Article 258 of the Constitution of India, the President has been pleased to entrust to the Government of Mysore, the functions of the Central Government under Rule 3 of the Registration of Foreigners Rules, 1939, in the Ministry of Home Affairs Notification No. 4-6-49—F.I., dated the 9th May 1950.

Now therefore in exercise of the powers entrusted under the said Rule 3 of the Registration of Foreigners Rules, 1939, and in supersession of Notification No. P. 9546—Ptl. 36-47-4, dated 14th December 1948, His Highness the Maharaja of Mysore is pleased to appoint the Inspector-General of Police in Mysore, Bangalore, as the Registration Officer for the whole of Mysore State for the purposes of the said Rules.

By Order of His Highness the Maharaja,

K. SRINIVASAN,

Chief Secretary to Government.

No. L.D. 1851—L.A. 47-49-13, dated Bangalore, the 9th September 1950.

In exercise of the powers conferred by Article 195 read with clause (9) of Article 238 of the Constitution of India, the Rajpramukh of Mysore His Highness the Maharaja is pleased to determine the rates of allowances to the members of the Legislative Assembly of Mysore attending meetings of committees of the Legislative Assembly as hereunder:

Daily Allowance	...	Rupees fifteen.
Travelling Allowance—		
Railway Fare	...	Double First Class.
Mileage	...	Six annas *plus* 33 1/3 per cent of six annas.

Members shall be entitled to daily allowance for the days on which the meetings of the committees are held and in the case of mofussil members for a day before and a day after the meetings provided they are present at the place of meeting on the days for which the daily allowance is to be paid.

This order shall be deemed to have to come into force on the 26th day of January 1950.

JAYA CHAMARAJA WADIYAR,

Maharaja of Mysore.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

Printed by the Director of Printing, Stationery and Publications
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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

(HOME DEPARTMENT).

No. H.A. 5344—Pol. 192-49-6, dated Bangalore, the 8th September 1950.

In exercise of the powers conferred by Sub-Section 1 of Section 7 of the Cinematograph Act, 1923, His Highness the Maharaja of Mysore is pleased to appoint the following gentlemen as additional non-official members of the Mysore Cinematograph Board constituted in the Notification No. H. 4579—Pol. 192-49-4, dated 12th August 1950 as the authority for the whole State for the purpose of examining and certifying films and pictorial representations as suitable for public exhibition and publication :—

1. Sri A. Ramanujam, Civil Station, Bangalore.
2. Janab Syed Abdur Rahman, Mysore Legislative Assembly, Dharmaraj Koil Street, Civil Station, Bangalore.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

No. D. 3959—Geol. 33-50-2, dated Bangalore, the 7th September 1950.

The draft of the following amendments to the Mysore Petroleum Rules 1942, which it is proposed to make in exercise of the powers conferred by section 4 of the Mysore Petroleum Act, 1942, (Mysore Act No. VI of 1942), is hereby published for the information of all persons likely to be affected thereby as required by sub-section (2) of section 29 of the said Act.

Notice is hereby given that the draft amendments will be taken into consideration after the 15th October 1950.

Objections and suggestions, if any, to the said draft may be forwarded to the Secretary to Government, Local Self-Government Department, for consideration, so as to reach him before the said date.

Any suggestion or objection received after the date specified above will not be considered.

Draft.

1. In the Mysore Petroleum Rules—In sub-rule (3) of rule 67, sub-rule (2) of rule 69, sub-rule (3) of rule 70, sub-rule (3) of rule 74, sub-rule (2) of rule 75, sub-rule (2) of rule 108 and sub-rule (1) of rule 109, for the words "one rupee" the words "rupees two" shall be substituted.

2. In rule 76, for the words "three rupees", the words "rupees five" shall be substituted.

3. For sub-rule (2) of rule 109, the following sub-rule shall be substituted, namely :—

"(2) The fees for comparing a privately owned test apparatus with the Standard Test Apparatus shall be as follows :—

Abel Flash Point Apparatus or Pensky Marton Apparatus	...	Rs. 45
Barometer	...	Rs. 15
Thermometer	...	Rs. 15

4. In rule 110—

(*a*) In sub-rule (1) for the words "five rupees" the words "rupees ten" shall be substituted.

(*b*) In sub-rule (2) for the words "five rupees, the words "rupees ten" shall be substituted.

5. In Schedule I—

(i) In column 5 against Article No. 1, for the words and figure "Re. 1", the words and figure "Rs. 2", shall be substituted.

(ii) In column 5 against Article No. 2, for the words and figure "Rs. 4", the words and figure "Rs. 6" shall be substituted.

(iii) In column 5 against Articles 3, 4, 5, 6 and 7, for the entries (a), (b), (c), (d), (e), (f) and (g), the following entries shall be substituted, namely :—

Non-Dangerous Petroleum.	
(*a*) When the quantity to be stored does not exceed five hundred gallons.	Rs. 12.

(b)	When the quantity to be stored exceeds five hundred but does not exceed one thousand gallons.	Rs. 20.
(c)	When the quantity to be stored exceeds one thousand but does not exceed five thousand gallons.	Rs. 20 for the first one thousand gallons *plus* Rs. 5 for every additional one thousand gallons or part thereof.
(d)	When the quantity to be stored exceeds five thousand but does not exceed fifty thousand gallons.	Rs. 40 for the first five thousand gallons *plus* Rs. 8 for every additional one thousand gallons or part thereof.
(e)	When the quantity to be stored exceeds fifty thousand gallons.	Rs. 400 for the first fifty thousand gallons *plus* Rs. 50 for every additional twenty five thousand gallons or part thereof subject to a maximum of Rs. 750.

Dangerous Petroleum.

(f)	When the quantity to be stored or imported and stored does not exceed five hundred gallons.	Rs. 12.
(g)	When the quantity to be stored or imported and stored exceeds five hundred gallons.	The same fees as those laid down for storage of non-dangerous petroleum.

6. In Schedule II.—

(1) In form B, for the words and figures "Re. 1", the words and figures "Rs. 2" shall be substituted.

(2) In Form C, for the words and figures "Rs. 4", the words and figures "Rs. 6" shall be substituted.

By Order of His Highness the Maharaja,

No. L. 6196—C.M. 30-50-5, dated Bangalore, 11th September 1950.

In pursuance of clause (a) of Section 366 of the City of Bangalore Municipal Corporation Act, 1949, (Mysore Act No. LXIX of 1949), the draft of the following

notification which it is proposed to issue under clause (a) of sub-section (2) of Section 48 of the said Act, is hereby published :—

Draft Notification.

In exercise of the powers conferred by clause (a) of sub-section (2) of Section 48 of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act No. LXIX of 1949) and in supersession of Notification No. L. 6671—C. M. 57-49-6, dated the 7th January 1950, His Highness the Maharaja of Mysore is pleased to declare that, for the purposes of the section of Councillors to fill the seats specially reserved for members of the Depressed Classes and Women under clause (a) of sub-section (1) of Section 5, one seat shall be reserved for each of the following Divisions for the Depressed Classes and Women, respectively, namely :—

Depressed Classes		*Women*	
Division No. 4 Labour Colony Division	1 seat	Division No. 1 Malleswaram West	1 seat
Division No. 8 Kempapur Agrahar	1 seat	Division No. 23 Basavangudi East	1 seat
Division No. 25 Town Hall	1 seat	Division No. 29 Cubbonpet	1 seat
Division No. 50 Austin Town	1 seat	Division No. 13 Sri Kasi Visvesvaraswamy Temple	1 seat
Division No. 41 Bamboo Bazaar	1 seat	Division No. 33 Fraser Town	1 seat
Division No. 36 Murphy Town	1 seat	Division No. 44 Tasker Town	1 seat

By Order of His Highness the Maharaja,

L. MUNISWAMY,
Secretary to Government,
Local Self-Government Department.

No. L. S. 1923—L.W. 90-50-3, dated Bangalore, 8th September 1950.

In exercise of the powers conferred by Section 4 of the Industrial Disputes Act, 1947, (Central Act XIV of 1947), His Highness the Maharaja of Mysore is pleased to appoint the following officers to be Conciliation Officers

Company of India, Inc., J. L. Morison, Son & Jones (India), (Mead Johnson, Ltd., U.S.A.), Evans Medical Supplies (India), Ltd., and the Fair Deal Corporation, Ltd. Bombay, for the prices specified in column 2 of the said schedule, the prices specified in column 2 hereunder shall be substituted.

Boots Pure Drug Co. (India), Ltd., Bombay.

	Rs.	a.	p.
Sulphaguanidine Boots.—			
Tablets of 0·5 gm. Containers of 500 ...	17	6	0
Sulphanilamide Boots.—			
P-Aminobenzene sulphonamide Tablets of 0.5 gm. (7½ gr. appox.) Bottle of 100 ...	2	0	0

Lederle Laboratories (India), Ltd., Bombay.

	Rs.	a.	p.
Aureomycin Hydrochloride Capsules.—			
250 mg. per capsule. 8 capsules ...	29	5	0
Aureomycin Hydrochloride Capsules.—			
250 mg. per capsule. 16 capsules ...	58	10	0
Aureomycin Hydrochloride Intravenous.—			
100 mg. 1 vial ...	11	11	0
Aureomycin Hydrochloride Ointment.—			
30 mg. per gm. ½ oz. tube ...	8	0	0
Aureomycin Hydrochloride Ointment (Ophthalmic).—			
1 mg. per gm. 6⅛ oz. tube ...	12	3	0
Aureomycin Hydrochloride Spersoids.—			
Brand of Aureomycin HCL Powder 50 mg. per dose 25 doses ...	24	8	0
Ledercillin Spersoids.—			
Brand of Buffered Crystalline Penicillin G Powder 50,000 units each dose. 25 doses	15	13	0
Pacitane (formerly Artane).—			
Brand of Trihexyphenidyl 2 mg. per tablet 100	15		0

charged with the duty of mediating in and promoting the settlement of Industrial Disputes within the respective jurisdictions noted against each:

Officer	Jurisdiction
1. The Excise Commissioner, in Mysore, Bangalore.	Bangalore District.
2. The Deputy Commissioner, Mysore District, Mysore.	Mysore District.
3. The Deputy Commissioner, Mandya District, Mandya.	Mandya District.
4. The Deputy Commissioner, Kolar District, Kolar.	Kolar District.
5. The Deputy Commissioner, Tumkur District, Tumkur.	Tumkur District.
6. The Deputy Commissioner, Chitaldrug District, Chitaldrug.	Chitaldrug District.
7. The Deputy Commissioner, Shimoga District, Shimoga.	Shimoga District.
8. The Deputy Commissioner, Chikmagalur District, Chikmagalur.	Chikmagalur District.
9. The Deputy Commissioner, Hassan District, Hassan.	Hassan District.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

No. C. 763—Co. 23-49-66, dated Bangalore, the 2nd September 1950.

In exercise of the powers conferred by Section 3 and clause (*a*) of sub-section (1) of Section 4 of the Mysore Drugs (Control) Act, 1950, (Mysore Act No. VI of 1950), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the Schedule to Notification No. C. 3130—Co., dated the 3rd October 1949 namely :—

(1) In respect of the drugs in the said schedule specified in column 1 hereunder which are manufactured by Boots Pure Drug Co. (India), Ltd., Bombay, Lederle Laboratories (India), Ltd., Bombay, Martin and Harris, Ltd., Bombay (E. R. Squibb & Sons, International Corporation Incorporated, New York, U.S.A.), Eli Lilly &

Martin & Harris, Ltd., Bombay.

E. R. Squibb & Sons International Corporation Incorporated, New York, U. S. A.

		Rs.	a.	p.
Penicillin Crystalline G Potassium or Sodium.—				
Vial of 100,000 units	...	1	2	9
„ 200,000 units	...	1	12	0
„ 500,000 units	...	3	4	3
„ 1,000,000 units	...	4	12	3
Crystacillin Fortified 400,000 units per c.c. vial of 1 c.c.	...	5	8	0
Penicillin G Potassium tablets.—				
50,000 units box of 12	...	7	2	9
100,000 units box of 6	...	7	2	9
Crysticillin (Procaine Penicillin G for Aqueous injection) Vial of 300,000 units	...	4	8	0

Eli Lilly & Company of India, Inc.

	Rs.	a.	p.
Penicillin–G, Crystalline–Potassium, 200,000 units, 20–c.c. rubber stoppered ampoules per ampoule	2	0	0
Penicillin–G, Crystalline–Potassium, 20–c.c. rubber-stoppered ampoules 500,000 units–per ampoule	3	11	0
1,000,000 units per ampoule ...	7	2	0

J. L. Morison, Son & Jones (India), Ltd.

Mead Johnson, Ltd., U. S. A.

		Rs.	a.	p.	
'Brewers Yeast' Tablets 100's	...	3	5	0	
1,000's	...	19	12	0	

Evans Medical Supplies (India), Ltd.

	Rs.	a.	p.	
Penicillin.—				
(Sodium Salt Crystalline 'G') 1 lakh ...	0	15	0	each
2 lakh ...	1	8	0	„
5 lakh ...	2	10	0	„
10 lakh ...	4	8	0	„

The Fairdeal Corporation, Ltd., Bombay.

BI-PEN.–Combination Package containing a single dose vial (300,000 units of Crystalline Procaine Penicillin and 100,000 units of Potassium Penicillin Crystalline G) with a 1 c.c. vial of sterile water	8	0	0

(2) The entry "250's" occurring under "Brewers Yeast Tablets" and its maximum retail price, under the heading J. L. Morison Sons & Jones (India), Ltd., appearing in the said schedule shall be deleted.

By Order of His Highness the Maharaja,

No. C. 777—Co. 23-49-67, dated Bangalore, 2nd September 1950.

In exercise of the powers conferred by Section 3 and Clause (a) of sub-section (1) of Section 4 of the Mysore Drugs (Control) Act, 1950, (Mysore Act No. VI of 1950), His Highness the Maharaja is pleased to direct that the following further amendment shall be made in the Notification No. C. 3130—Co., dated the 3rd October 1949, namely :—

In the Schedule annexed to the said notification—

(1) To the entries under the heading "Volkart Brothers, Ltd., Bombay" the following sub-heading and entries shall be added, namely :—

Messrs, Societe Parisienne D' expansion Chimique (Specia), 21, Rue Jean-Goujon, Paris 8e,

(CRYSTALLIZED PENICILLIN G SODIUM "RHODIA" (Specilline G),

		Rs.	a.	p.	
Phials of	1,00,000 units ...	1	2	0	each
Do	2,00,000 do ...	1	11	0	,,
Do	5,00,000 do ...	2	15	0	,,
Do	10,00,000 do ...	4	14	0	,,

DIHYDRO-STREPTOMYCIN SULPHATE "RHODIA" (Didromycine).

	Rs.	a.	p.	
Phial containing equivalent of 1 gram Streptomycin Base	4	15	0	each
Phial containing equivalent of 5 grams Streptomycin Base	23	8	0	,,

(2) To the entries under the heading "Evans Medical Supplies (India), Ltd.," the following entry shall be added, namely :—

DISTAQUAINE 'G' 0·3 m.u.

	Rs.	a.	p.
Boxes of 5 x single dose vials ...	13	4	0

(3) To the entries under the heading "Boots Pure Drug Co., (India), Ltd." the following entry shall be added, namely:—

SULPHACETAMIDE SODIUM EYE OINTMENT—BOOTS.

	Rs.	a.	p.	
10 per cent Ointment Tube of 60 grs. ...	1	0	0	each

(4) The following heading and entries shall be added, namely:—

American Products Co., Ltd., Bombay.

(THE HEYDEN CHEMICAL CORPORATION, NEW YORK).

Streptomycin Dihydrosulfate (Heyden) 1 gm. vial ...	5	0	0	
Crystalline Penicillin Sodium G (Heyden)—				
	Rs.	a.	p.	
100,000 units	1	0	0	per vial.
200,000 do	1	8	0	,,
500,000 do	2	8	0	,,
1000,000 do	4	5	0	,,
Crystalline Penicillin G Potassiam (buffered) 12 tablets (Heyden) 500,000 units ...	6	12	0	,,
Crystalline Procaine Penicillin G Aqueous Injection, Fortified 1 c.c. vial (Heyden) 400,000 units	5	0	0	,,

By Order of His Highness the Maharaja,

A. S. KHALEEL,
Secretary to Government,
Food and Agriculture Departments.

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

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PART IV

Section I-A

BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L.D. 1778—Legis. 3-50-7, dated Bangalore, 31st August 1950.

Ordered that the accompanying Bills No. 40 to 46 published in the *Gazette of India*, Part II, Section 2, dated the 5th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

PART II—SECTION 2

BILLS AND REPORTS OF SELECT COMMITTEES ON BILLS

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 1st August 1950:—

BILL NO. 40 OF 1950

A Bill to amend the Preventive Detention Act, 1950.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Preventive Detention (Amendment) Act, 1950.

2. *Amendment of section 3, Act IV of 1950.*—In section 3 of the Preventive Detention Act, 1950 (hereinafter referred to as the said Act),—

(*i*) in sub section (2), for the words "Any district magistrate or sub-divisional magistrate, or, in a presidency-town, the commissioner of Police, may," the following shall be substituted, namely :—

"Any of the following officers, namely :—

(*a*) district magistrates,

(*b*) additional district magistrates specially empowered in this behalf by the State Government,

(*c*) sub-divisional magistrates,

(*d*) in the presidency-towns, Commissioners of Police, and

(*e*) in the State of Hyderabad, Civil Administrators, may,";

(*ii*) in sub-section (3), for the words "by a district magistrate, sub-divisional Magistrate or Commissioner of Police," the words, brackets and figure "by an officer mentioned in sub-section (2)," shall be substituted.

3. *Omission of section 14, Act IV of 1950.*—Section 14 of the said Act shall be omitted.

4. *Repeal of Ordinance XIX of 1950.*—(1) The Preventive Detention (Amendment) Ordinance, 1950 (XIX of 1950) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

The Preventive Detention (Amendment) Ordinance, 1950 (XIX of 1950) was promulgated on the 23rd June, 1950. By this Ordinance, section 14 of the Preventive Detention Act (IV of 1950)—which had been declared by the Supreme Court to be *ultra vires* of the Constitution—was repealed. Two other minor amendments were made. The first conferred on additional district magistrates specially empowered in this behalf by State Governments the power to issue detention orders under section 3 of the Act. This was necessary as, in certain parts of the country, officers designated as additional district magistrates held independent charge of a district or part of a district and it was considered desirable that in such cases the only local officer with the authority to issue a detention order should not be the sub-divisional magistrate. The second amendment conferred the powers of ordering detention on Civil Administrators in the State of Hyderabad. The reason in this case was that, under the administrative structure that is in vogue in that State, law and order are the responsibility of the Civil Administrators, who, in this respect, correspond to district magistrates in all other States.

It is necessary now to convert the Ordinance into an Act since, under article 123(2) of the Constitution, the Ordinance will cease to be valid six weeks after the assembly of Parliament.

VALLABHBHAI PATEL.

NEW DELHI;
The 19th July, 1950.

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BILL* No. 41 OF 1950

A Bill to provide for exempting from taxes on income a portion of the salaries of certain persons who have in the public interest volunteered to forego it.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950.

2. *Exemption from taxes on income in respect of salaries surrendered by certain persons.*—(1) Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), or in any other law for the time being in force relating to taxation on income, no income-tax or super-tax shall be payable by any person specified in sub-section (2) of this section in respect of that part of the salary due to him under law for any period after the 31st day of October, 1949, which that person has, by declaration in writing, volunteered to forego in the public interest; and that part of the salary shall not be included in his total income for the purposes of any law relating to taxation on income.

(2) The persons referred to in sub-section (1) are—

(*a*) the President of India;

(*b*) the Ministers, Ministers of State and Deputy Ministers of the Dominion or of the Union;

(*c*) the President of the Constituent Assembly of the Dominion;

(*d*) the Speaker and Deputy Speaker of the Dominion Legislature or of Parliament;

(*e*) the Judges of the Federal Court or of the Supreme Court;

(*f*) the Auditor-General of India or the Comptroller and Auditor-General of India;

(*g*) the Governors of Provinces or of Part A States;

(*h*) the Ministers and Deputy Ministers of States;

(*i*) the Speakers and Deputy Speakers of Legislative Assemblies of States;

(*j*) the Chairmen and Deputy Chairmen of the Legislative Councils of States;

(*k*) the Judges of the High Courts for Governors' Provinces or for Part A States.

3. *Repeal of Ordinance XV of 1950.*—The Voluntary Surrender of Salaries (Exemption from Taxation) Ordinance, 1950 (XV of 1950) is hereby repealed.

---

*The President has, in pursuance of clause (1) of Article 117 of the Constitution of India, recommended to Parliament the introduction of the Bill.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to replace by an Act the Voluntary Surrender of Salaries (Exemption from Taxation) Ordinance, 1950 (Ordinance No. XV of 1950) which provided for exemption in respect of salary voluntarily foregone in the public interest by a person whose salary is fixed under law. But for this exemption such part of his salary would be chargeable to tax as salary due to him under the law.

C. D. DESHMUKH.

NEW DELHI;
The 12th July, 1950.

BILL* No. 42 OF 1950

A Bill to amend the Indian Finance Act, 1949 and the Finance Act, 1950

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Finance Laws (Amendment) Act, 1950.

2. *Amendment of Third Schedule, Act XIV of 1949.*—In the Indian Finance Act, 1949 (XVI of 1949), in sub-clauses (*a*) and (*b*) of clause (*i*) of the proviso to paragraph A of Part I of the Third Schedule, for the words "entitled to a share on partition", the words "entitled to claim partition" shall be substituted and shall be deemed always to have been substituted.

3. *Amendment of First Schedule, Act XXV of 1950.*—In the Finance Act, 1950 (XXV of 1950), in sub-clauses (*a*) and (*b*) of clause (*i*) of the proviso to paragraph A of Part I of the First Schedule, for the words "entitled to a share on partition", the words "entitled to claim partition" shall be substituted and shall be deemed always to have been substituted.

STATEMENT OF OBJECTS AND REASONS

For the purposes of assessment to income-tax, Hindu undivided family was being treated since 1939 just as an "individual". In 1949, the exemption limit was raised to Rs. 5,000 in the case of every Hindu undivided family which consisted of at least two adults coparceners or of at least two branches, the qualifying phrase used in the Finance Act, 1949, being "entitled to a share on partition". In the Finance Act, 1950, the exemption limit was raised from Rs. 5,000 to Rs. 7,200 subject to the satisfaction of the same conditions.

It has now been found that according to a literal interpretation of the wording employed in the Finance Acts, 1949 and 1950, the benefit of the higher exemption limit could be claimed by a family consisting of a husband, wife and minor son, since the wife, though she cannot claim partition, is, according to Hindu law, *entitled to a share on partition*, should partition take place at any time between the father and the minor son. It was never the intention that such a family should get the benefit of the higher exemption limit in any State. The Bill proposes to make an amendment with a view to remedying the defect in the wording of the Finance Acts, 1949 and 1950.

C. D. DESHMUKH.

NEW DELHI;
The 19th July, 1950.

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*The President has, in pursuance of clause (1) of Article 117 and clause (1) of Article 274 of the Constitution of India, recommended the introduction of the Bill.

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BILL NO. 43 OF 1950

A Bill to extend the Cantonments (House Accommodation) Act, 1923, and the Cantonments Act, 1924, to Part B States, to provide for elections to Cantonment Boards on the basis of adult suffrage and to provide for a temporary extension of the term of office of elected members of Cantonment Boards.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Cantonment Laws (Extension and Amendment) Act, 1950.

2. *Amendment of section 1, Act VI of 1923.*—In sub-section (2) of section 1 of the Cantonments (House Accommodation) Act, 1923, the words and letter "except Part B States" shall be omitted.

3. *Amendment of section 2, Act VI of 1923.*—To section 2 of the Cantonments (House Accommodation) Act, 1923, the following sub-section shall be added, namely :—

"(3) In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in that State."

4. *Amendment of section 1, Act II of 1924.*—In sub-section (2) of section 1 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), the words and letter "except Part B States" shall be omitted.

5. *Insertion of new section 2A in Act II of 1924.*—After section 2 of the said Act, the following section shall be inserted, namely :—

"2A. *Rule of construction.*—In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in that State."

6. *Amendment of section 27, Act II of 1924.*—In section 27 of the said Act,—

(*i*) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Every person who, on such date as may be fixed by the Central Government in this behalf by notification in the Official Gazette (hereinafter in this section referred to as 'the qualifying date'), is not less than twenty-one years of age and who has resided in the cantonment for a period of not less than twelve months immediately preceding the qualifying date shall, if not otherwise disqualified, be entitled to be enrolled as an elector.

Explanation.—When any place is declared a cantonment for the first time, or when any local area is first included in a cantonment, residence in the place or area comprising the cantonment on the aforesaid date shall be deemed to be residence in the cantonment for the purposes of this sub-section.";

(*ii*) in sub-section (2),—

(*a*) for the words "aforesaid date" the words "qualifying date" shall be substituted;

(*b*) clause (*ii*) shall be omitted.

7. *Amendment of section 29, Act II of 1924.*—Clause (*b*) of section 29 of the said Act shall be omitted.

8. *Amendment of section 31, Act II of 1924.*—Clause (*c*) of section 31 of the said Act shall be omitted.

9. *Extension of term of office of elected members of Cantonment Boards.*—Notwithstanding anything contained in section 15 of the said Act, the elected members of every Cantonment Board holding office immediately before the commencement of this Act shall continue to hold office up to the 30th day of November, 1950, or until the date of the notification of the election of their successors under sub-section (7) of section 13 of the said Act, whichever date is earlier.

10. *Repeal and savings.*—(1) The Cantonment Laws (Extension and Amendment) Ordinance, 1950 (XVIII of 1950) is hereby repealed.

(2) If immediately before the 19th day of June, 1950, there was in force in any of the Part B States any law corresponding to the Cantonments (House Accommodation) Act, 1923 (VI of 1923), or the Cantonments Act, 1924 (II of 1924), such corresponding law is hereby repealed.

(3) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under such corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Cantonments (House Accommodation) Act, 1923, or the Cantonments Act, 1924, as the case may be, as if those Acts were in force in the State on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

Although, armed forces of the Union are stationed in cantonments within Part B States, the Cantonments Act, 1924 and the Cantonments (House Accommodation) Act, 1923 do not apply to those States, and this has given rise to serious administrative difficulties. It is, therefore, necessary to extend both the Acts to Part B States.

2. Elections to Cantonment Boards in Part A States and Part C States were last held between July and September, 1946 and were due to be held during the same period in 1949. As the preparation of electoral rolls for Cantonment Boards was linked with that of the electoral rolls for the State Legislatures and Parliament in the cantonment areas and as extensive changes in the latter rolls were expected in view of the introduction of adult franchise, it was decided to hold in abeyance the elections in cantonments for a period of one year.

3. The life of the existing Boards which was extended for a year will expire on various dates during the period between the 6th July and 30th September 1950. While the electoral rolls in respect of the State Legislatures and Parliament are not likely to be completed before that time and the life of the Boards cannot be extended by more than one year under the existing provisions (section 15) of the Cantonments Act, 1924, it has, therefore, become necessary to promote legislation for—

(*i*) the preparation of electoral rolls for all Cantonment Boards on the basis of adult franchise, independently of those for the State Legislatures and Parliament; and

(*ii*) the extension of the life of the existing Boards for a further short period until the next ordinary elections can be held on the basis of the new rolls.

4. Since the necessary legislation could not be introduced in the last session of Parliament, and in view of its urgency, an Ordinance, namely, the Cantonment Laws (Extension and Amendment) Ordinance, 1950 was promulgated on the 19th June, 1950.

5. The amendments made in the said Ordinance are of a permanent nature, except the provision for the extension of the term of the office of elected members of every Cantonment Board up to the end of November, 1950, or until the election of their successors is notified under sub-section (7) of section 13 of the Cantonments Act, 1924, whichever is earlier. It is, therefore, essential to replace the Ordinance by an Act in the next session of Parliament.

BALDEV SINGH.

NEW DELHI;
The 14th July, 1950.

BILL No. 44 OF 1950

A Bill further to amend the Bombay Port Trust Act, 1879, the Calcutta Port Act, 1890, the Madras Port Trust Act, 1905 and the Indian Ports Act, 1908, for certain purposes and to make certain consequential amendments in the Calcutta Port (Pilotage) Act, 1948.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Port Trusts and Ports (Amendment) Act, 1950.

(2) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette appoint, and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF BOMBAY ACT VI OF 1879

2. *Amendment of section 3, Bombay Act VI of 1879.*—In section 3 of the Bombay Port Trust Act, 1879 (hereinafter in this Chapter referred to as the Bombay Act),—

(*a*) after clause (2), the following clause shall be inserted, namely:—

"(3) 'vessel' includes anything made for the conveyance principally by water of human beings or of property;"

(*b*) for clause (4), the following clause shall be substituted, namely :—

"(4) 'master' when used in relation to any vessel or to any aircraft making use of the port, means any person having for the time being the charge or control of such vessel or such aircraft, as the case may be, except a pilot, harbour master, berthing master, dock master or assistant harbour master of the port;";

(*c*) in clause (5), after the words "any vessel" the words "or any aircraft making use of the port" shall be inserted;

(*d*) for clause (12), the following clause shall be substituted, namely :—

"(12) the words 'public securities' mean—

(*a*) promissory notes, debentures, stock or other securities of the Central Government or of any State Government;

(*b*) debentures or other securities for money issued by, or on behalf of, any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in India and includes the debentures or other securities issued by the Board under this Act."

3. *Insertion of new section 3A in Part I of Bombay Act VI of 1879.*—In Part I of the Bombay Act containing the heading "Preliminary", after section 3, the following section shall be inserted, namely :—

"3A. *Requirements as to publication of notifications, orders, etc., in the Official Gazette.*—Any requirement in this Act that a notification, order, rule or bye-law issued or made by the Board or by the Central Government shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule or bye-law shall—

(*a*) where it is issued or made by the Board, be published in the Official Gazette of the State, and

(*b*) where it is issued or made by the Central Government, be published in the *Gazette of India*."

4. *Amendment of section 7, Bombay Act VI of 1879.*—In section 7 of the Bombay Act, for the words "nominee-trustees and the Chairman shall be appointed" the words "nominee-trustees other than those who are *ex-officio* trustees shall be appointed either by name or by virtue of office" shall be substituted.

5. *Repeal of section 8, Bombay Act VI of 1879.*—Section 8 of the Bombay Act is hereby repealed.

6. *Substitution of new sections for sections 9, 10 and 11, Bombay Act VI of 1879.*—For sections 9, 10 and 11 of the Bombay Act, the following sections shall be substituted, namely :—

"9. *Term of office of nominee and elective trustees.*—(1) Subject to the provisions of sections 11A, 13, 13A and 14A, a nominee-trustee appointed by name or an elective-trustee shall hold office for a term of two years commencing on the first of April next following the appointment or election, as the case may be, of such trustee.

(2) Subject to the provisions of section 11A, a nominee-trustee appointed by the Central Government by virtue of an office shall, until the

Central Government by notification in the Official Gazette otherwise directs, continue to be a trustee so long as he continues to hold that office.

10. *Filling of vacancies in the office of trustees.*—(1) Every vacancy in the office of a nominee-trustee appointed by name or of an elective-trustee caused by the expiration of the term of office of such trustee shall be filled by appointment or election, as the case may be, within one month immediately preceding the date of expiration of such term.

(2) Every vacancy in the office of a nominee-trustee appointed by the Central Government by virtue of an office caused by the expiration of the term of office of such trustee or otherwise shall be filled by appointment within one month of the occurrence of such vacancy.

11. *The Chairman.*—The Chairman shall be appointed by the Central Government by notification in the Official Gazette and shall hold office during the pleasure of the Central Government.

11A. *Resignation of trustees.*—A nominee-trustee appointed by the Central Government, whether by name or by virtue of an office, or an elective-trustee may at any time resign his office by giving notice in writing to the Central Government, and on such resignation being accepted by that Government he shall cease to be a trustee, and his office shall thereupon become vacant."

7. *Amendment of section 13, Bombay Act VI of 1879.*—In section 13 of the Bombay Act,—

(*a*) in sub-section (1), for the words "a trustee other than the Chairman occasioned by the death, resignation or disqualification of such trustee", the following shall be substituted, namely :—

"a nominee-trustee appointed by name or of an elective-trustee, occasioned by the death or resignation of such trustee or by virtue of the provisions of section 14A";

(*b*) in sub-section (2),—

(*i*) for the words "a trustee", in the first place where they occur, the words "a nominee-trustee appointed by name or an elective-trustee" shall be substituted;

(*ii*) for the words "elected or appointed as aforesaid" the words "appointed or elected, as the case may be" shall be substituted;

(*iii*) for the words "a trustee", in the second place where they occur, the words "such a trustee" shall be substituted.

8. *Insertion of new section 13A in Bombay Act VI of 1879.*—After section 13 of the Bombay Act, the following section shall be inserted, namely :—

"13A. *Saving provision for appointment of nominee-trustees after the prescribed period.*—Nothing in the foregoing provisions shall prevent a person being appointed by the Central Government to fill any vacancy in the office of a nominee-trustee after the expiration of the period specified therefor in section 10 or section 13, as the case may be, if for any reason it has been possible for the Central Government to make the appointment within the said period :

Privided that where a nominee-trustee is appointed by name to fill any such vacancy as is referred to in section 10 after the expiration of the

period specified therefor in that section, the term of office of such trustee shall commence on the date on which his appointment is notified in the Official Gazette and shall expire on the date on which his term of office would have expired if his appointment has been made within the period so specified."

9. *Amendment of section 14, Bombay Act VI of 1879.*—In section 14 of the Bombay Act.—

(1) in sub-section (1)—

(*a*) for the words "to be a trustee who" the words "to be a nominee-trustee appointed by name or to be an elective-trustee if he" shall be substituted;

(*b*) in clause (a), for the words "uncertificated bankrupt or" the word "undischarged" shall be substituted;

(*c*) in clause (*b*), after the words "reversed or quashed" the words "unless the Central Government has by order removed the disqualification" shall be inserted;

(*d*) to clause (*d*), the following shall be added, namely:—

"unless the Central Government has by order removed the disqualification";

(2) In clause (*f*) of sub-section (2), for the words "two thousand" the words "ten thousand" shall be substituted.

10. *Amendment of section 14A, Bombay Act VI of 1879.*—In section 14A of the Bombay Act, for the words "Any trustee" the words "Any nominee-trustee appointed by name or elective-trustee" shall be substituted.

11. *Amendment of section 14B, Bombay Act VI of 1879.*—In section 14B of the Bombay Act, for the words "A trustee" the words "Any nominee-trustee appointed by name or elective-trustee" shall be substituted.

12. *Substitution of new section for section 15, Bombay Act VI of 1879.*—For section 15 of the Bombay Act, the following section shall be substituted, namely:—

"15. (1) *Salary and allowances of the Chairman.*—The Central Government may, from time to time, determine the salary and allowances if any, to be paid to the Chairman, and may prescribe the conditions and restrictions subject to which such salary or allowances shall be payable.

(2) *Fees payable to trustees other than the Chairman.*—It shall be lawful for the Central Government to determine, from time to time, the fees, if any, to be paid to the trustees other than the Chairman or to any class of trustees *not* including the Chairman for attendance at meetings, and to prescribe the conditions and restrictions subject to which such fees shall be payable."

13. *Amendment of section 16, Bombay Act VI of 1879.*—In section 16 of the Bombay Act,—

(1) to sub-clause (*g*) of clause (2), the following shall be added, namely:—

"and the said minutes, excepting such portion thereof as the Chairman may in any particular case direct, shall also be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may, from time to time, be fixed by the Board;".

(2) in clause (3),—

(*a*) for the words "any Committee so formed", in the first place where they occur, the words "any Committee to which any such power has been so delegated" shall be substituted;

(*b*) for the words "any committee so formed", in the second place where they occur, the words "any such committee" shall be substituted.

14. *Insertion of new section 16A in Bombay Act VI of 1879.*—After section 16 of the Bombay Act, the following section shall be inserted, namely;—

"16A. *Power of Board to enter into contracts.*—The Board may enter into contracts for carrying into effect the purposes of this Act:

Provided that no contract, under or by virtue of which a sum greater than two lakhs of rupees may in any event be payable by the Board, shall be valid unless it has been made with the previous sanction of the Central Government."

15. *Amendment of section 17, Bombay Act VI of 1879.*—In section 17 of the Bombay Act, for the words "one thousand" the words "ten thousand" shall be substituted.

16. *Amendment of section 18, Bombay Act VI of 1879.*—To section 18 of the Bombay Act, the following proviso shall be added, namely:—

"Provided that no settlement shall be made under this section without the previous sanction of the Central Government if such settlement involves the payment by the Board of a sum exceeding twenty-five thousand rupees."

17. *Amendment of section 20, Bombay Act VI of 1878.*—In section 20 of the Bombay Act,—

(1) for the words "The allowances, if any," the words "The leave salary and the allowances, if any," shall be substituted;

(2) after the words "The salary" the words "and the allowances, if any," shall be inserted.

18. *Insertion of new sections 20A and 20B in Part II of Bombay Act VI of 1879.*—In Part II of the Bombay Act containing the heading "Of the Board of Trustees", after section 20, the following sections shall be inserted, namely:—

"20A. *Pension for Chairman.*—It shall be lawful for the Central Government to fix the amount of pension, gratuity or compassionate allowance, if any, which shall be paid to the Chairman on his retirement from office and to determine the conditions under which the said pension, gratuity or compassionate allowance shall be so payable.

20B. *Permission to Chairman to join Provident Fund.*—Notwithstanding anything contained in this Act, it shall be lawful for the Central Government to permit the Chairman to join the provident fund established by the Board under clause (6) of section 22 for the benefit of the officers and servants of the Board and to determine the conditions and restrictions subject to which such permission may be given."

19. *Amendment of section 21, Bombay Act VI of 1879.*—In the proviso to section 21 of the Bombay Act,—

(1) in clause (*b*), the words "or who are engaged for a definite period exceeding six months" shall be omitted;

(2) the words, figures and brackets "of section 22, clauses (1) to (4) both inclusive, or" shall be omitted.

20. *Amendment of section 22, Bombay Act VI of 1879.*—In section 22 of the Bombay Act,—

(1) in clauses (5) and (6), the words "and the Chairman" shall be omitted;

(2) for clauses (6A) and (6B), the following clause shall be substituted namely:—

"(6A) for authorising the payment of—

(*a*) *contributions to welfare fund*—contributions to any welfare fund or funds which may be established by the Board for the benefit of the officers and servants appointed under this Act;

(*b*) *contributions or appropriations to special funds*—contributions or appropriations to any special fund or funds which may be established by the Board for any of the purposes of this Act:

Provided that no such welfare fund or special fund shall be established without the previous sanction of the Central Government; and the maximum rate of annual contribution to any such welfare fund or special fund and the maximum amount to which any such welfare fund or special fund may be allowed to accumulate shall be fixed from time to time by the Central Government;";

(3) in clause (8),—

(*a*) the words "with the previous santion of the Central Government" shall be omitted;

(*b*) after the words "widows or children" the words "or other surviving dependent relatives" shall be inserted;

(4) after clause (8), the following clause shall be substituted namely:—

"(9) for regulating the recruitment, promotion, conduct, discipline, punishment and any other matter relating to the terms and conditions of service applicable to the officers and servants of the Board, their rigths and their privileges, not covered by any of the foregoing clauses.";

Matters relating to terms and conditions of service not covered by other clauses.

(5) for the existing proviso at the end of this section, the following proviso shall be substituted, namely:—

"Provided that the regulations framed under this section shall not take effect unless and until they have been approved by the Central Government".

21. *Amendment of section 22A, Bombay Act VI of 1879.*—In section 22A of the Bombay Act,—

(1) sub-sections (1) and (2) shall be omitted;

(2) in sub-section (3), for the words "A Deputy Chairman so appointed" the words "Any person appointed to be the Deputy Chairman under this Act" shall be substituted.

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22. *Substitution of new sections for section 23, Bombay Act VI of 1879.*—For section 23 of the Bombay Act, the following sections shall be substituted, namely :—

"23. *Appointments, etc., by whom to be made.*—(1) Subject to the provisions of the Schedule for the time being in force, sanctioned by the Board under section 21 and of the regulations and bye-laws made by the Board under sections 22 and 72 and also to the provisions of section 24, the power of appointing, promoting, granting leave to, suspending, finding, reducing or dismissing, or of disposing of any other question relating to the services of, the officers and servants of the Board including the power of dispensing with the services of any such officer or servant otherwise than by reason of such officer's or servant's own misconduct, shall be exercised, in the case of officers and servants whose maximum monthly salary exclusive of allowances is less than one thousand rupees, by the Chairman and in every other case, by the Board.

(2) The Chairman may upon such terms as he may think fit and subject to the provisions referred to in sub-section (1) and to the Chairman's powers of revision and control, delegate to the head of any department for the time being all or any of his powers under the said sub-section in respect of the officers and servants of that department whose monthly maximum salary exclusive of allowances does not exceed three hundred and fifty rupees.

(3) Notwithstanding anything contained in sub-section (1), the power to make apointment to the post of Deputy Chairman or to posts of heads of departments shall be exercisable only by the Central Government after consultation with the Chairman.

(4) The Central Government may by order specify each of the posts the incumbent of which shall, for the purposes of this section, be regarded as the head of a department.

23A. *Disposal of fines realised under section 23.*—Notwithstanding anything contained in section 49, all fines realised under section 23 shall be credited to any such welfare fund or funds as may be established by the Board for the benefit of the officers and servants appointed under this Act."

23. *Substitution of new section for section 24, Bombay Act VI of 1879.*—For section 24 of the Bombay Act, the following section shall be substituted, namely :—

"24. *Sanction of Central Government when necessary.*—(1) Every order made by the Board under section 21, section 22A or section 23, save where such order has been made in accordance with the regulations, for the time being in force, framed under section 22, shall, so far as the same relates to the Deputy Chairman or to any officer of the Board whose maximum monthly salary exclusive of allowances is not less than one thousand rupees, be subject to the sanction of the Central Government.

(2) For the purposes of sub-section (1), any person who may, from time to time, be employed as Consulting Engineer to the Board otherwise than on the basis of payment of monthly salary shall be deemed to be an officer whose maximum monthly salary exclusive of allowances is not less than one thousand rupees."

24. *Repeal of section 25, Bombay Act VI of 1879.*—Section 25 of the Bombay Act is hereby repealed.

25. *Amendment of section 26, Bombay Act VI of 1879.*—In the proviso to section 26 of the Bombay Act, for the words "fifty years" the words "thirty years" shall be substituted.

26. *Repeal of section 32, Bombay Act VI of 1879.*—Section 32 of the Bombay Act is hereby repealed.

27. *Amendment of section 39, Bombay Act VI of 1879.*—Clause (*iii*) of the proviso to section 39 of the Bombay Act shall be omitted.

28. *Amendment of section 41B, Bombay Act VI of 1879.*—Section 41B of the Bombay Act shall be re-numbered as sub-section (1) of that section; and—

(*a*) in that sub-section as so re-numbered, for the word "value" the words "current market value" shall be substituted; and

(*b*) after the said sub-section, the following sub-section shall be inserted, namely:—

"(2) If the cash and the current market value of the securities at the credit of the sinking fund are in excess of the amount which should be at its credit, the Accountant-General shall certify the amount of this excess and the Board may, with the previous sanction of the Central Government,—

(*a*) withdraw the whole or any part of the certified excess in the sinking fund, or

(*b*) reduce or discontinue the half-yearly contributions to the sinking fund prescribed by sub-section (1) of section 41A, or

(*c*) adopt a combination of these measures."

29. *Insertion of new sections 41D and 41E in Bombay Act VI of 1879.*—After section 41C of the Bombay Act, the following sections shall be inserted, namely:—

"41D. *Power to repay loans before due-date.*—The Board may with the previous sanction of the Central Government apply any sums, out of money which may come into their hands under the provisions of this Act and which can be so applied without prejudicing the security of other holders of debentures issued under this Act, in repaying to the Central Government any sum which may remain due to them in respect of the principal of any loan, although the time fixed for the repayment of the same may not have arrived:

Provided that no such repayment shall be made of any sum less than ten thousand rupees; and that, if such repayment is made, the amount of interest in each succeeding instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

41E. *Loans to be raised in India and in Indian currency.*—Unless the Central Government by notification in the Official Gazette otherwise direct, all loans contracted by the Board shall be raised in India and in the Indian currency."

30. *Substitution of new sections for sections 42A to 42E, Bombay Act VI of 1879.*—For sections 42A, 42B, 42C, 42D and 42E of the Bombay Act, the following sections shall be substituted, namely:—

"42A. *Right of survivors of joint or several payees of debentures and securities.*—(1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872 (IX of 1872),—

(*a*) when any debenture or security issued under provisions of this Act is payable to two or more persons jointly, and either or any of

them dies, the debenture or security shall be payable to the survivor or survivors of those persons, and

(*b*) when any such debenture or security is payable to two or more persons severally, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons, or to the representative of the deceased, or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after the commencement of this Act.

(3) Nothing herein contained shall affect any claim which any representatives of a deceased person may have against the survivor or survivors under or in respect of any debenture or security to which sub-section (1) applies.

(4). For the purposes of this section, a body incorporated under the Indian Companies Act, 1913 (VII of 1913) or the Co-operative Societies Act, 1912 (II of 1912) or any other enactment for the time being in force whether in or outside India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

42B. *Power of one of two or more joint holders to grant receipts.*—Where two or more persons are joint holders of any debenture or security issued under the provisions of this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of the holders.

42C. *Prohibition of indorsements elsewhere than on the debenture or security.*—Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881 (XXVI of 1881), the holder of any debenture or security issued under the provisions of this Act and transferable by indorsement shall not be said to indorse the debenture or security, or be called the indorser thereof, if, when he signs the same for purpose of negotiation, he subscribes his signature for that purpose elsewhere than on the back of the debenture or security itself.

42D. *Indorser of debenture or security not liable for amount thereof.*—Notwithstanding anything in the Negotiable Instruments Act, 1881 (XXVI of 1881), a person shall not, by reason only of his having indorsed any debenture or security issued under the provisions of this Act, be liable to pay any money due, either as principal or as interest, thereunder.

42E. *Impression of signature on debentures and securities.*—(1) The signature of the person authorised to sign debentures or securities on behalf of the Board may be printed, engraved or lithographed, or impressed by such other mechanical process as the Board may direct, on the debentures or securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

42F. *Issue of duplicate debentures and securities.*—(1) When any debenture or security issued under the provisions of this Act is alleged to have been lost, stolen or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss, theft or destruction it would be payable, he may, on application to the Board, and on producing proof to their satisfaction of the loss, theft or destruction and of the justice of the

claim and on payment of such fee, if any, as may be prescribed by rules made under section 42J, obtain from the Board an order for—

(*a*) the payment of interest in respect of the debenture or security said to be lost, stolen or destroyed pending the issue of a duplicate debenture or security, and

(*b*) the issue of a duplicate debenture or security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification as may be prescribed by rules made under section 42J of the loss, theft or destruction.

(3) A list of the debentures or securities in respect of which an order is passed under sub-section (1) shall be published in such manner as may be prescribed by such rules.

(4) If at any time before the Board become discharged under the provisions of this Act from liability in respect of any debenture or security the whole of which is alleged to have been lost, stolen or destroyed, such debenture or security is found, any order passed in respect thereof under this section shall be cancelled.

42G. *Issue of converted, etc., debentures and securities.*—(1) The Board may, subject to such conditions as may be prescribed by rules made under section 42J, on the application of a person claiming to be entitled to any debenture or security or debentures or securities issued under the provisions of this Act, on being satisfied of the justice of the claim and on delivery of the debenture or security or debentures or other securities receipted in the manner prescribed by such rules and on payment of such fees, if any, as may be so prescribed, convert, consolidate or sub-divide the debenture or security or debentures or securities, and issue to the applicant a new debenture or security or debentures or securities accordingly.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into a debenture or security or debentures or securities of the same or different classes or of the same or different loans.

42H. *Discharge in certain cases.*—Notwithstanding anything contained in section 10 of the Indian Limitation Act, 1908 (IX of 1908),—

(*i*) on payment of the amount due on any debenture or security issued under the provisions of this Act on or after the date on which payment becomes due, or

(*ii*) when a duplicate debenture or security has been issued under section 42F, or

(*iii*) when a new debenture or security or debentures or securities has or have been issued upon conversion, consolidation or sub-division under section 42-G,

the Board shall be discharged from all liability in respect of the debenture or security or debentures or securities so paid or in place of which a duplicate or new debenture or security or debentures or securities has or have been issued—

(*a*) in the case of payment—after the lapse of six years from the date on which payment was due;

(*b*) in the case of a duplicate debenture or security—after the lapse of six years from the date of the publication under sub-section (3)

of section 42F of the list in which the debenture or security is first mentioned, or from the date of the last payment of interest on the original debenture or security, whichever date is later;

(*c*) in the case of a new debenture or security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

42I. *Issues of stock certificates.*—(1) The Board at its discretion at the time of issue or at any time during the currency of any debentures or securities issued under the provisions of the Act, upon the application of the subscriber for, or holder of, any such debentures or securities, issue to him, in lieu of the debentures or securities deliverable to or held by him, a certificate in the nature of a stock certificate in respect of each loan to which such debentures or securities relate, which shall be in such form as the Board, with the previous consent of the Central Government, shall from time to time determine, and all the provisions of section 41 as to the interest on debentures shall apply to the interest on the stock certificates.

(2) The Board shall upon the application of the holder of a stock certificate convert the same into debentures or securities of the loan to which it relates.

42J. *Board empowered to make rules.*—(1) The Board may from time to time make rules to prescribe—

(*a*) the amounts for which stock certificates may be issued;

(*b*) the fees to be levied in respect of the issue of stock certificates;

(*c*) the mode in which payment of interest in respect of all debentures, stock certificates and other securities issued under the provisions of this Act is to be made, recorded and acknowledged;

(*d*) the circumstances and the manner in which such debentures and securities may be renewed;

(*e*) the circumstances in which such debentures and other securities must be renewed before further payment of interest thereon can be claimed;

(*f*) the fees to be levied in respect of the issue of renewed debentures or other securities;

(*g*) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock;

(*h*) the form in which debentures or other securities delivered for renewal, conversion, consolidation or sub-division are to be receipted;

(*i*) the proof to be produced by persons applying for duplicate debentures or other securities;

(*j*) the form and manner of publication of the notification mentioned in sub-section (2) of section 42F, the manner of publication of the list mentioned in sub-section (3) of that section, and the fees to be levied in respect of the issue of duplicate debentures or other securities;

(*k*) the circumstances and manner in which duplicate stock certificates may be issued and the fees to be levied on any such issue;

(*l*) the nature and amount of indemnity to be given by a person applying for the payment of interest on debentures or other securities

alleged to have been wholly or partly lost, stolen or destroyed, or the issue of duplicate debentures or other securities;

(*m*) the conditions subject to which debentures and other securities issued under the provisions of this Act may be converted, consolidated or sub-divided, and the fees to be levied in respect of the conversion, consolidation and sub-division of such debentures or other securities;

(*n*) generally the measures to be adopted for carrying out the purposes of this Part.

(2) The Board may also, from time to time, vary, alter or revoke any such rules so made by them.

No rule, or alteration or revocation of a rule, shall have effect until the same shall have been approved by the Central Government, and such approval shall have been published in the Bombay Government Gazette and no rule, or alteration or revocation of a rule, shall be approved by the Central Government until the same shall have been published for three weeks successively in the said Gazette.

It shall be lawful for the Central Government at any time by notification in the said Gazette to cancel any rule published under the provisions of this section.

42K. *Power of Board to borrow by means of temporary overdraft or otherwise.*—Notwithstanding anything contained in this Act, it shall be lawful for the Board to borrow moneys by means of temporary overdraft or otherwise by pledging the debentures or other securities held by them in their reserve funds or on the security of their fixed deposits in their banks:

Provided that such temporary overdrafts or other loans—

(*a*) shall not at any time have a longer currency than six months, and

(*b*) shall not be taken without the previous sanction of the Central Government if at any time in any year the amount of such overdrafts or other loans exceeds ten lakhs of rupees:

Provided further that all moneys so borrowed by temporary overdraft or otherwise shall be expended for the purposes of this Act.

42L. *Power of Board to raise loans under the Local Authorities Loans Act, 1914.*—Nothing contained in this Act shall be deemed to affect the power of the Board to raise loans under the Local Authorities Loans Act, 1914 (IX of 1914).

31. *Amendment of section 43, Bombay Act VI of 1879.*—In section 43 of the Bombay Act,—

(1) the word "and" at the end of clause (*b*) shall be omitted;

(2) to clause (*c*) the word "and" shall be added;

(3) after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) for permission to make any other use of".

32. *Amendment of section 43A, Bombay Act VI of 1879.*—In section 43A of the Bombay Act,—

(1) in clause (*a*), for the word "dock" in the two places where it occurs, the words "wharf, dock or pier" shall be substituted;

(2) the word "and" the end of clause (*b*) shall be omitted ;

(3) after clause (*c*), the following clauses shall be inserted, namely :—

"(*d*) for the loading, unloading, carting, sorting, weighing, stocking and repacking of goods ;

(*e*) for the towing of, and rendering assistance to, vessels within the port limits ; and

(*f*) for any other services in respect of vessels or goods excepting services for which fees are chargeable under the Indian Ports Act, 1908 (XV of 1908)."

33. *Amendment of section 43B, Bombay Act VI of 1879.*—In section 43B of the Bombay Act,—

(1) after sub-section (1), the following sub-section shall be inserted, namely :—

"*(1A) Power of Central Government to cancel scale of tolls, etc.*—It shall be competent for the Central Government at any time to cancel any of the scales framed under sction 43 of section 43A, or to call upon the Board to modify any portion of such scales ; and thereupon the Board shall modify such scales accordingly.";

(2) in sub-section (2), after the words "in special cases," the words "for reasons to be recorded in writing" shall be inserted.

34. *Insertion of new section 43C in Bombay Act VI of 1879.*—After section 43B of the Bombay Act, the following section shall be inserted, namely :—

"43C. *Power to levy concessional rate of charges on coastal cargo.*—In framing scales under section 43 or section 43A, the Board may prescribe a lower rate of charges in respect of cargo carried in a vessel from one Indian port to another.

Explanation.—In this section, the expression "Indian port" means any port on the Indian coast situate between the north-westernmost part of Saurashtra and the south-easternmost part of West Bengal including any port in the foreign settlements."

35. *Repeal of sections 46 and 47, Bombay Act VI of 1879.*—Sections 46 and 47 of the Bombay Act are hereby repealed.

36. *Amendment of section 48, Bombay Act VI of 1879.*—In section 48 of the Bombay Act, for the figures "46" the figures "45" shall be substituted.

37. *Amendment of section 49, Bombay Act VI of 1879.*—In section 49 of the Bombay Act,—

(1) before the words, "The moneys credited to the general account shall be held by the Board in trust" the words, figures, brackets and letters "Subject to the provisions of section 36 of the Indian Ports Act, 1908 (XV of 1908)" shall be inserted ;

(2) in paragraph (*b*) of sub-clause (*ii*) of clause (1), the words "and the Chairman" shall be omitted ;

(3) after clause (7) ending with the words "in the service of the Board", the following clauses shall be inserted, namely :—

"(8) the payment of such sums as may from time to time be agreed upon by the Central Government and the State Government or by the

Board and the State Government as a reasonable contribution on account of expenses in connection with the watch and ward functions of the harbour police and the police employed for guarding the docks, warehouses and other property of the Board ;

(9) any other charge for the purposes of this Act or for which the Board may be legally liable.";

(4) the first proviso shall be omitted ;

(5) in the second proviso the word "also" shall be omitted.

38. *Insertion of new section 49A in Bombay Act VI of 1879.*—After section 49 of the Bombay Act, the following section shall be inserted, namely :—

"49A. *Power to transfer moneys from the general account to the pilotage account and* vice versa.—The Board may, with the previous sanction of the Central Government, apply any sum out of the moneys credited to the general account of the port towards meeting deficits, if any, in the pilotage account of the port maintained under section 36 of the Indian Ports Act, 1908 (XV of 1908), or transfer the whole or any part of any surplus funds in such pilotage account to the general account of the port."

39. *Repeal of section 50, Bombay Act VI of 1879.*—Section 50 of the Bombay Act is hereby repealed.

40. *Amendment of section 51, Bombay Act VI of 1879.*—In section 51 of the Bombay Act—

(1) for the words "either the general or pilotage account", the words "the general account" shall be substituted ;

(2) after the words "in public securities", the words "or in such other securities as the Central Government may approve in this behalf" shall be inserted ;

(3) after the words "other public securities", the words "or in such other securities as the Central Government may approve in this behalf" shall be inserted ;

(4) for the second and third paragraphs (including the proviso) commencing with the words "But the money so invested by the Board" and ending with the words "to which the balance invested belongs", the following shall be substituted :—

"*Limitation of the amounts to be so invested and disposal of the surplus.*—But the money so invested by the Board shall not exceed such amount, annually or in the aggregate, as may from time to time be prescribed by the Central Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied in liquidation, on or before the 1st of August next following the 31st of March on which such surplus accrued, of the principal of any loan raised by the Board under section 39 or of the capital of any debt at any time due by the Board to the Government, or of the money due to the holders of the securities issued by the Board under section 30."

41. *Amendment of section 52, Bombay Act VI of 1879.*—In section 52 of the Bombay Act, for the words "the Board shall", the words "the Central Government shall" shall be substituted.

42. *Insertion of new section 55A in Bombay Act VI of 1879.*—After section 55 of the Bombay Act, the following section shall be inserted, namely :—

"55A. *Re-appropriation of amounts in estimate.*—Subject to any directions which the Central Government may give in this behalf, any sum of money, or part thereof, of which the expenditure has been authorised in an estimate for the time being in force, finally approved by the Central Government, and which has not been so spent, may at any time be re-appropriated by the Board to meet any excess in any other expenditure authorised in the said estimate :

Provided that no such re-appropriation shall be made from one major head of expenditure to another such head without the previous sanction of the Central Government."

43. *Substitution of new section for section 56, Bombay Act VI of 1879.*—For section 56 of the Bombay Act, the following section shall be substituted, namely :—

"56. *No expenditure above twenty thousand rupees to be incurred unless sanctioned in estimate.*—(1) Subject to the provisions of section 55A, no sum exceeding twenty thousand rupees shall, save in cases of pressing emergency, be expended by or on behalf of the Board unless such sum is included in some estimate at the time in force which has been finally approved by the Central Government.

(2) If any sum exceeding twenty thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Central Government together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure :".

44. *Insertion of new section 56A in Bombay Act VI of 1879.*—After section 56 of the Bombay Act, the following section shall be inserted, namely :—

"56A. *Capital expenditure.*—(1) No expenditure shall be charged by the Board to capital without the previous sanction of the Central Government.

(2) Nothing in sub-section (1) shall require further sanction of the Central Government in the case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Central Government unless the excess is more than ten per cent of the expenditure so sanctioned."

45. *Amendment of section 58, Bombay Act VI of 1879.*—In section 58 of the Bombay Act,—

(1) in the first paragraph, for the word "twice" the word "once" shall be substituted ;

(2) in the last paragraph, for the words "the auditors shall forward their report upon the accounts to the Board, who shall cause" the words "the auditors shall forward copies of their report upon the accounts to the Central Government and to the Board and the Board shall thereupon cause" shall be substituted.

46. *Insertion of new sections 58A and 58B in Bombay Act VI of 1879.*—After section 58 of the Bombay Act, the following sections shall be inserted, namely :—

"58A. *Board to remedy defects and irregularities pointed out in the audit report and Central Government to pass final orders.*—(1) The Board

shall forthwith take into consideration any defects or irregularities that may be pointed out by the Auditors in their report and shall pass such orders thereon as the Board may think fit and shall also send a report of the action taken by the Board to the Central Government.

(2) If there is a difference of opinion between the Board and the Auditors on any point included in the audit report and the Board feel unable to accept the recommendations, if any, made by the Auditors on such point, the matter shall forthwith be referred to the Central Government who shall pass final orders thereon and the Board shall be bound to give effect to such orders.

Submission of Accounts.

58B. *Submission of accounts to the Central Government.*—(1) The Board shall annually, or oftener if directed by the Central Government so to do, submit statements of their receipts and disbursements to the Central Government in such form and at such time as that Government may direct.

(2) A copy of all such statements shall be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time be fixed by the Board."

47. *Amendment of section 64A, Bombay Act VI of 1879.*—In section 64A of the Bombay Act,—

(1) in sub-section (1), after the words "sent by post", the following shall be inserted, namely :—

"or if the notice cannot be so served upon him or his address is not known, cause a notice to be published in the Official Gazette and also in at least one of the principal local daily newspapers";

(2) in the proviso to sub-section (1), for the words "served under this section" the words "so served or published under this sub-section" shall be substituted ;

(3) in sub-section (2), for the words, brackets and figure "If such owner or person is not known or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the Board may at any time after the goods have become liable to be sold under sub-section (1)", the following shall be substituted, namely :—

"If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section (1), the Board may at any time after the expiration of two months from the date on which such goods were placed in their custody".

48. *Amendment of section 68, Bombay Act VI of 1879.*—In section 68 of the Bombay Act,—

(1) in the proviso, for the words "two thousand" the words "ten thousand" shall be substituted ;

(2) after the proviso, the following proviso shall be inserted, namely :—

"Provided further that where the estimated cost of any new work has been approved by the Central Government, no expenditure which exceeds by more than ten per cent. the estimated cost so approved shall be incurred by the Board without the previous approval of the Central Government."

49. *Insertion of new sections 68A, 68B and 68C in Bombay Act VI of 1879.*—After section 68 of the Bombay Act, the following sections shall be inserted, namely :—

" 68A. *Power of Chairman as to execution of works.*—Notwithstanding anything contained in section 68, the Chairman may direct the execution of any work the cost of which does not exceed ten thousand rupees, and may enter into contracts for the execution of such works.

68B. *Power of Central Government to order survey or examination of works.*—The Central Government may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof, and the cost of such survey and examination shall be borne and paid by the Board out of the moneys credited to the general account of the Board.

68C. *Power of Central Government to restore or complete works at the cost of Board.*—If at any time, the Board,—

(*a*) allow any work constructed by, or vested in, the Board under this Act to fall into disrepair, or

(*b*) do not, within a reasonable period, complete any work commenced by the Board, or included in any estimate approved by the Central Government, or

(*c*) do not, after due notice in writing, proceed to carry out effectually any work or repair which is necessary in the opinion of the Central Government for the purposes of this Act,

the Central Government may cause such work to be restored or completed or carried out, or such repair to be carried out, and the cost of any such restoration, completion, construction or repair shall be paid by the Board, and if the Board do not within a reasonable time provide for such payment, the same shall be recoverable in the manner provided in the Local Authorities Loans Act, 1914 (IX of 1914)."

50. *Amendment of section 72, Bombay Act VI of 1879.*—In section 72 of the Bombay Act, the words " and all fees for pilotage shall be paid to the Board " shall be omitted.

51. *Insertion of new section 72A in Bombay Act VI of 1879.*—After section 72 of the Bombay Act, the following shall be inserted, namely :—

Powers of the Board as Conservator, etc.

" 72A. (1) All moneys received by the Board as the Conservator of the port or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908 (XV of 1908) excluding all fees and all fines and penalties creditable to the pilotage account of the port under sub-section (*5a*) of that section shall be deemed to be a portion of the income of the Board and shall be included in their annual estimates and accounts.

Moneys received by the Board as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.

(2) All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised shall apply to the works which may be executed by the Board as such Conservator or body, not being works the cost of which is chargeable to the pilotage account of the port under sub-section (*5b*) of section 36 of the Indian Ports Act, 1908, and also to the sanction of such works, the estimates therefor and the expenditure thereunder."

Powers, etc., of the Board as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.

52. *Amendment of section 73, Bombay Act VI of 1879.*—In section 73 of the Bombay Act,—

(*a*) at the end of clause (*g*), the word "and" shall be omitted;

(*b*) clause (*h*) shall be omitted.

53. *Amendment of section 74, Bombay Act VI of 1879.*—In section 74 of the Bombay Act, for the words "for three weeks successively in the said Gazette" the words "once in the said Gazette and also in three successive issues of at least two of the principal local daily newspapers" shall be substituted.

54. *Substitution of new section for section 79, Bombay Act VI of 1879.*—For section 79 of the Bombay Act, the following section shall be substituted, namely :—

"79. *Persons employed under this Act to be public servants for certain purposes.*—Every person employed under this Act shall, for the purposes of sections 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code (Act XLV of 1860) and for the purposes of the Prevention of Corruption Act, 1947 (II of 1947), be deemed to be a public servant within the meaning of section 21 of the said Code."

55. *Amendment of section 82, Bombay Act, VI of 1879.*—In section 82 of the Bombay Act,—

(1) for the words "weight or quantity of such goods, or the tonnage of any vessel carrying such goods has been understated", the following shall be substituted, namely :—

"weight, quantity, value or description of such goods or the tonnage of any vessel carrying such goods has been understated or incorrectly given";

(2) for the words "weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall on the application of the Board", the following shall be substituted, namely :—

"entire weight, quantity or value of the consignment of goods so understated or incorrectly described or on the amount of tonnage so understated as may be determined by the Board or when any officer of the Board has, subject to such conditions as may be laid down by the Board, been generally or specially authorised by the Board in this behalf, by such officer, and the said sum shall on application by or on behalf of the Board".

56. *Insertion of new section 86A in Bombay Act VI of 1879.*—After section 86 of the Bombay Act, the following section shall be inserted, namely :—

"86A. *Application of certain provisions of the Act to aircraft.*—The provisions of sections 43, 43A, 45, 66, 67, 68, 73, 83, 84 and 87 shall apply in relation to all aircraft making use of the port while on water as they apply in relation to vessels."

57. *Amendment of section 87, Bombay Act VI of 1879.*—In the second paragraph of section 87 of the Bombay Act, after the words "appointed under this Act" the words "or of any person acting under the authority or direction of, or in subordination to, any such officer or servant" shall be inserted.

58. *Addition of new sections 88, 89 and 90 to Bombay Act VI of 1879.*—After section 87 of the Bombay Act, the following sections shall be inserted, namely :—

"88. *Power to evict certain persons from the premises of the Board.*—(1) Notwithstanding anything contained in any other law, if the Board in exercise of the powers conferred on it by rules made under this Act cancels the allotment of any premises made to any officer or servant of the Board, the Board may, by notice in writing, order such allottee or any other person who may be in occupation of the whole or any part of the premises to vacate them and deliver the same to the Board or a person appointed by the Board in that behalf within such period as may be specified in the notice.

Explanation.—For the purposes of this section, "premises" means any building or part of a building and includes—

(*i*) the gardens, grounds and outhouses, if any, appertaining to such building or part of a building;

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and

(*iii*) any furniture, books or other things belonging to the Board and found in such building or part of a building.

(2) If any allottee or other person refuses or fails to comply with an order made under sub-section (1), any presidency-magistrate or magistrate of the first class may, on application made by or on behalf of the Board, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Board or a person appointed by the Board in that behalf and the police officer may, for that purpose, use such force as may be necessary.

(3) Any such notice as is referred to in sub-section (1) may be served—

(*a*) by delivering or tendering it to the allottee or any other person who may be in occupation of the whole or any part of the premises, or

(*b*) by affixing it on the outer door or some other conspicuous part of the premises, or

(*c*) by post.

89. *Annual administration report of the port.*—As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Central Government, the Board shall submit to the Central Government a detailed report of the administration of the port during the preceding year ending on the thirty-first day of March in such form as the Central Government may direct.

90. *Power to supersede the Board.*—(1) If, at any time, it appears to the Central Government that the Board are unable to perform, or have persistently made default in the performance of, the duties imposed on them by or under the provisions of this Act or of any other law, or have exceeded or abused their powers, or that any orders or directions lawfully made or given by the Central Government have not been or are not likely to be carried out by the Board, the Central Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification :

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable time to the Board to show

cause why the Board should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board the following consequences shall ensue:—

(*a*) all the trustees shall, as from the date of supersession, vacate their offices as such trustees;

(*b*) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Board, shall, until the Board is reconstituted under clause (*b*) or clause (*c*) sub-section (3), be exercised and performed by such person or persons as the Central Government may direct;

(*c*) all property vested in the Board shall, until the Board is reconstituted under clause (*b*) or clause (*c*) of sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(*a*) extend the period of supersession for such further term as they may consider necessary; or

(*b*) reconstitute the Board by fresh appointment and fresh election, and in such case any persons who vacated their offices under clause (*a*) of sub-section (2) shall not be deemed disqualified for appointment or election, as the case may be; or

(*c*) by notification in the Official Gazette direct that the Board shall be reconstituted by the persons who vacated their offices under clause (*a*) of sub-section (2) and shall recommence functioning as if the Board had not been superseded:

Provided that the Central Government may at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (*b*) or clause (*c*) of this sub-section."

CHAPTER III

Amendment of Bengal Act III of 1890

59. *Amendment of section 3, Bengal Act III of 1890.*—In section 3 of the Calcutta Port Act, 1890 (hereinafter in this Chapter referred to as the Calcutta Act),—

(*a*) in cluase (1), for the words "of the Port" the words "for the Port" shall be substituted;

(*b*) in clause (6)—

(*i*) after the words "any vessel" the words "or any aircraft making using of the port" shall be inserted;

(*ii*) after the words "assistant harbour master", the words "of the port" shall be inserted;

(*iii*) the words "or such aircraft, as the case may be" shall be added at the end;

(c) after clause (8), the following clauses shall be inserted, namely :—

"(8a) 'Port approaches' shall mean those parts of the navigable rivers and channels leading to the port in which the Indian Ports Act, 1908 (XV of 1908) is in force;

(8b) 'public securities' shall mean—

(*a*) a promissory notes, debentures, stock or other securities of the Central Government or of any State Government;

(*b*) debentures or other securities for money issued by, or on behalf of, any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in India, and includes the debentures or other securities issued by the Commissioners under this Act."

60. *Insertion of new section 3A in Chapter I of Bengal Act III of 1890.*—In Chapter I of the Calcutta Act, after section 3, the following section shall be inserted, namely :—

"3A. *Requirements as to publication of notifications, orders, etc., in the Official Gazette.*—Any requirement in this Act that a notification, order, rule or bye-law issued or made by the Commissioners or by the Central Government shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule or bye-law shall—

(*a*) where it is issued or made by the Commissioners, be published in the Official Gazette of the State, and

(*b*) where it is issued or made by the Central Government, be published in the *Gazette of India*."

61. *Amendment of section 6, Bengal Act III of 1890.*—After sub-section (2) of section 6 of the Calcutta Act, the following sub-section shall be inserted, namely :—

"(3) All the Commissioners other than those who are *ex-officio* Commissioners or elected Commissioners shall be appointed either by name or by virtue of office by the Central Government by notification in the Official Gazette."

62. *Amendment of section 8, Bengal Act III of 1890.*—In section 8 of the Calcutta Act,—

(1) in sub-section (1), the words "after consultation with the Commissioners" shall be omitted;

(2) sub-section (2) shall be omitted.

63. *Amendment of section 9, Bengal Act III of 1890.*—In section 9 of the Calcutta Act,—

(*a*) in sub-section (1), the words "he resigns or" shall be omitted;

(*b*) sub-section (2) shall be omitted.

64. *Substitution of new section for section 10, Bengal Act III of 1890.*—For section 10 of the Calcutta Act, the following section shall be substituted, namely :—

"10. *Term of office of Commissioners.*—(1) Subject to the provisions hereinafter contained, every person appointed by name or elected to be a Commissioner shall hold the office to which he shall be appointed or

elected for a term of two years commencing on the first day of April next following his appointment or election, as the case may be, but may, at the expiration of such term, be re-appointed or re-elected.

(2) Subject to the provisions of section 10A, every person appointed by the Central Government to be a Commissioner by virtue of an office shall, until the Central Government by notification in the Official Gazette otherwise directs, continue to be a Commissioner so long as he continues to hold that office.

(3) The term of office of every Commissioner appointed by name or elected as such and holding office on the first day of April next following the commencement of the Port Trusts and Ports (Amendment) Act, 1950, shall be deemed to have expired on that day."

65. *Insertion of new section 10A in Bengal Act III of 1890.*—After section 10 of the Calcutta Act, the following section shall be inserted, namely :—

"10A. *Resignation of Commissioners.*—A Commissioner appointed by the Central Government whether by name or virtue of an office or an elected Commissioner may at any time resign his office by giving notice in writing to the Central Government, and on such resignation being accepted by that Government he shall cease to be a Commissioner, and his office shall thereupon become vacant."

66. *Amendment of section 11, Bengal Act III of 1890.*—In section 11 of the Calcutta Act,—

(1) in sub-section (1), for the words "allowances as may" the words "allowances, if any, as may, from time to time," shall be substituted ;

(2) sub-section (2) shall be omitted ;

(3) in sub-section (3), after the words "Deputy Chairman" the words "or to any class of Commissioners not including the Chairman or the Deputy Chairman" shall be inserted.

67. *Amendment of section 13, Bengal Act III of 1890.*—In sub-section (1) of section 13 of the Calcutta Act,—

(1) for the words "leave allowance" the words "leave salary and allowances, if any" shall be substituted ;

(2) after the words "the salary" the words "and allowances, if any," shall be inserted.

68. *Amendment of section 13A, Bengal Act III of 1890.*—In section 13A of the Calcutta Act, the words "on application made to it by the Commissioners in that behalf" shall be omitted.

69. *Insertion of new section 13B in Bengal Act III of 1890.*—After section 13A of the Calcutta Act, the following section shall be inserted, namely :—

"13B. *Permission to Chairman to join provident fund.*—Notwithstanding anything contained in this Act, it shall be lawful for the Central Government to permit the Chairman to join the provident fund established by the Commissioners under section 30A for the benefit of their officers and servants and to determine the conditions and restrictions upon and under which such permission may be given."

70. *substitution of new section for section 14, Bengal Act III of 1890.*— For section 14 of the Calcutta Act the following section shall be substituted, namely :—

"14. *Filling of vacancies in the office of Commissioners.*—(1) Every vacancy in the office of an elected Commissioner or of a Commissioner appointed by name caused by the expiration of the term of office of such Commissioner shall be filled by election or appointment, as the case may be, within one month immediately preceding the date of expiration of such term.

(2) Every vacancy in the office of a Commissioner appointed by the Central Government by virtue of an office caused by the expiration of the term of office of such Commissioner or otherwise shall be filled by appointment within one month of the occurrence of such vacancy."

71. *Amendment of section 15, Bengal Act III of 1890.*—In section 15 of the Calcutta Act,—

(1) in sub-section (1)—

(*a*) for the words "elected Commissioners" the words "elected or appointed Commissioner" shall be substituted;

(*b*) after the word "election" the words "or appointment, as the case may be," shall be inserted;

(2) in sub-section (2), after the word "elected" the words "or appointed" shall be inserted;

(3) after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) Nothing in this section shall prevent a person being elected or appointed as a Commissioner for a period shorter than three months in the place of an absent Commissioner, on the application of the Commissioners in meeting if the absentee is an elected Commissioner, or at the discretion of the Central Government if he is a Commissioner appointed by the Central Government."

72. *Substitution of new section for section 16, Bengal Act III of 1890.*— For section 16 of the Calcutta Act, the following section shall be substituted, namely :—

"16. *Filling of casual vacancies.*—Any casual vacancy in the office of an elected Commissioner or of a Commissioner appointed by name caused by the death or resignation of such Commissioner or by virtue of the provisions of sub-section (2) of section 17, shall be filled within one month by election or appointment, as the case may be, in the manner hereinbefore provided:

Provided that the Commissioner so elected or appointed shall retain his office so long only as the vacating Commissioner would have retained the same if such vacancy had not occurred."

73. *Insertion of new section 16A in Bengal Act III of 1890.*—After section 16 of the Calcutta Act, the following section shall be inserted, namely :—

"16A. *Saving provision for appointment of Commissioners after the prescribed period.*—Nothing in the foregoing provisions shall prevent a person being appointed by the Central Government to fill any vacancy in the office of a Commissioner appointed by the Central Government either by name or by virtue of an office after the expiration of the period

specified therefor in section 14 or section 16, as the case may be, if for any reason it has not been possible for the Central Government to make the appointment within the said period :

Provided that where a Commissioner is appointed by name to fill any such vacancy as is referred to in section 14 after the expiration of the period specified therefor in that section, the term of office of such Commissioner shall commence on the date on which his appointment is notified in the Official Gazette and shall expire on the date on which his term of office would have expired if his appointment had been made within the period so specified."

74. *Substitution of new sections for section 17, Bengal Act III of 1890.*— For section 17 of the Calcutta Act, the following sections shall be substituted, namely :—

"17. *Disqualification of Commissioners.*—(1) A person shall be disqualified to be an elected Commissioner or to be a Commissioner appointed by name, if he—

(*a*) is an undischarged insolvent, or

(*b*) has been convicted and sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed, unless the Central Government has by order removed the disqualification.

(2) Every person other than an *ex-officio* Commissioner or a Commissioner appointed by the Central Government by virtue of an office,—

(*a*) who, at any time after he becomes a Commissioner, shall be absent from six consecutive meetings without having the permission in that behalf of the Commissioners or who having such permission shall be absent from the meetings for a period exceeding one year ; or

(*b*) who shall, at any time after he becomes a Commissioner, accept or agree to accept any office or place of profit under this Act ; or

(*c*) who shall, save with the sanction of the Central Government participate or agree to participate in the profits of any work done by order of the Commissioners or be concerned or participate in the profits or any contract entered into with the Commissioners ; or

(*d*) who becomes disqualified for any of the reasons mentioned in sub-section (1) ; or

(*e*) who acts in contravention of the provisions of section 17A ; shall thenceforth cease to be a Commissioner and his office shall thereupon become vacant :

Provided that no such Commissioner shall vacate his office by reason only of his being a shareholder in any registered joint stock company with which the Commissioners may enter into any contract or by reason of his being interested in any loan of money to the Commissioners :

Provided further that no such Commissioners shall vacate his office by reason of his being interested in any purchase or lease of land or premises the sale or lease of which the Commissioners may determine on at a meeting under the provisions of this Act, or of his being interested in

any agreement under which facilities may be granted for the landing or shipment of goods in return for stipulated income guaranteed to the Commissioners in consideration of their undertaking to construct or provide such facilities.

17A. *Restriction on power of Commissioners to vote or discuss matters in which they are interested.*—An elected Commissioner or a Commissioner appointed by name shall not vote on, or take part in, the discussion of any question coming up for consideration at a meeting of the Commissioners or of any committee of their number, if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner or in which he is interested either professionally on behalf of a client or as agent for any person other than the Central Government, a local authority or a railway company."

75. *Amendment of section 19, Bengal Act III of 1890.*—In section 19 of the Calcutta Act, the words "sum of five and a half lakhs set apart by the Commissioners under this Act" the words "public securities or in such other further" shall be omitted.

76. *Amendment of section 24, Bengal Act III of 1890.*—In sub-section (3) of section 24 of the Calcutta Act, for the words "the promissory notes and other securities of the Central Government or in the debentures issued by the Commissioners under this Act" the words "public securities or in such other securities as the Central Government may approve in this behalf" shall be substituted.

77. *Amendment of section 24A, Bengal Act III of 1890.*—In section 24A of the Calcutta Act, for the words "current value," wherever they occur; the words "current market value" shall be substituted.

78. *Amendment of section 24B, Bengal Act III of 1890.*—In sub-section (2) of section 24B of the Calcutta Act, for the words "the promissory notes and other securities of the Central Government or in the debentures issued by the Commissioners under this Act" the words "public securities or in such other securities as the Central Government may approve in this behalf" shall be substituted.

79. *Amendment of section 24C, Bengal Act III of 1890.*—To section 24C of the Calcutta Act, the following sub-section shall be added, namely :—

"(4) All debentures or securities of the Commissioners heretofore purchased by, issued, transferred or assigned to, or indorsed into the names of the Commissioners or any person on their behalf, and all debentures and securities heretofore issued by way of renewal, consolidation or sub-division of any such debentures or securities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned, or indorsed to, any other person."

80. *Amendment of section 27, Bengal Act III of 1890.*—In section 27 of the Calcutta Act,—

(*a*) for the words "It shall be lawful for the Commissioners in meeting, if they think fit" the words "The Commissioners in meeting may, with the previous sanction of the Central Government, apply any sums" shall be substituted;

(*b*) for the words "to repay" the words "in repaying" shall be substituted.

81. *Addition of new sections 27A to 27L in Chapter III of the Bengal Act III of 1890.*—In chapter III of the Calcutta Act, after section 27, the following sections shall be inserted, namely :—

"27A. *Right of survivors of joint or several payees of debentures or securities.*—(1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872 (IX of 1872),—

(*a*) when any debenture or security issued by the Commissioners under this Act is payable to two or more persons jointly, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons, and

(*b*) when any such debenture, or security is payable to two or more persons severally, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons or to the representatives of the deceased or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after the commencement of this Act.

(3) Nothing herein contained shall affect any claim which any reresentative of a deceased person may have against the survivor or survivors under or in respect of any debenture or security to which subsection (1) applies.

(4) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913 (VII of 1913), or the Co-operative Societies Act, 1912 (II of 1912), or any other enactment for the time being in force whether within or without India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

27B. *Power of one of two or more joint holders to grant receipts.*—Where two or more persons are joint holders of any debenture or security issued by the Commissioners under this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Commissioners by any other of the holders.

27C. *Indorsements to be made on debenture or security itself.*—Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881 (XXVI of 1881), no indorsement of a debenture or security issued by the Commissioners under this Act and transferable by indorsement shall be valid unless made by the signature of the holder inscribed on the back of the debenture or the security itself.

27D. *Indorser of debentures or securities not liable for amount thereof.*—Nothwithstanding anything in the Negotiable Instruments Act, 1881 (XXVI of 1881), a person shall not by reason only of his having indorsed any debenture or security issued by the Commissioners under this Act be liable to pay any money due either as principal or as interest thereunder.

27E. *Impression of signature on debentures and securities.*—(1) The signature of the person authorised to sign debentures or securities on behalf of the Commissioners may be printed, engraved or lithographed or impressed by such other mechanical process as the Commissioners in meeting may direct, on the debentures or securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

27F. *Issue of duplicate debentures and securities.*—(1) When any debenture or security issued by the Commissioners under this Act is alleged to have been lost, stolen or destroyed either wholly or in part, and a person claims to be the person to whom, but for the loss, theft or destruction it would be payable, he may, on application to the Commissioners and on producing proof to their satisfaction of the loss, theft or destruction and of the justice of the claim and on payment of such fee, if any, as may be prescribed by rules made under section 27I, obtain from the Commissioners an order for—

(*a*) the payment of interest in respect of the debenture or security said to be lost, stolen or destroyed pending the issue of a duplicate debenture or security, and

(*b*) the issue of a duplicate debenture or security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification as may be prescribed by rules under section 27I of the loss, theft or destruction.

(3) A list of the debentures or securities in respect of which an order is passed under sub-section (1) shall be published in such manner as may be prescribed by such rules.

(4) If at any time before the Commissioners become discharged under the provisions of this Act from liability in respect of any debenture or security the whole of which is alleged to have been lost, stolen or destroyed, such debenture or security is found, any order passed in respect thereof under this section shall be cancelled.

27G. *Issue of converted, etc., debentures and securities.*—(1) The Commissioners may, subject to such conditions as may be prescribed by rules made under section 27I, on the application of a person claiming to be entitled to any debenture or security or debentures or securities issued by the Commissioners under this Act, on being satisfied of the justice of the claim and on delivery of the debenture or security or debentures or securities receipted in the manner prescribed by such rules and on payment of such fees, if any, as may be so prescribed, convert, consolidate or sub-divide the debenture or security or debentures or securities and issue to the applicant a new debenture or security or debentures or securities accordingly.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into a debenture or security or debentures or securities of the same or different classes or of the same or different loans.

27H. *Discharge in certain cases.*—Notwithstanding anything contained in section 10 of the Indian Limitation Act, 1908 (IX of 1908),—

(*i*) on payment of the amount due on any debenture or security issued by the Commissioners under this Act on or after the date on which payment becomes due, or

(*ii*) when a duplicate debenture or security has been issued under section 27F, or

(*iii*) when a new debenture or security or debentures or securities has or have been issued upon conversion, consolidation or sub-division under section 27G,

the Commissioners shall be discharged from all liability in respect of the debenture or security or debentures or securities so paid or in place of which a duplicate or new debenture or security or debentures or securities has or have been issued—

(*a*) in the case of payment after the lapse of six years from the date on which payment was due;

(*b*) in the case of a duplicate debenture or security—after the lapse of six years from the date of the publication under sub-section (3) of section 27F of the list in which the debenture or security is first mentioned or from the date of the last payment of interest on the original debenture or security, whichever date is later;

(*c*) in the case of a new debenture or security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

27I. *Power of Commissioners to make rules.*—(1) The Commissioners in meeting may from time to time make rules to provide for all or any of the following matters, namely:—

(*a*) the person, if any, authorised to sign, and the mode of affixing the corporate seal and of attestation of documents relating to the debentures and other securities issued by the Commissioners under this Act;

(*b*) the manner in which payment of interest in respect of such debentures or other securities is to be made and acknowledged;

(*c*) the circumstances and the manner in which such debentures and other securities may be renewed;

(*d*) the circumstnces in which such debentures and other securities must be renewed before further payment of interest thereon can be claimed;

(*e*) the form in which the debentures or other securities delivered for renewal, conversion, consolidation or sub-division are to be receipted;

(*f*) the proof which is to be produced by persons applying for duplicate debentures or other securities;

(*g*) the form and manner of publication of the notification mentioned in sub-section (2) of section 27F and the manner of publication of the list mentioned in sub-section (3) of that section;

(*h*) the nature and amount of indemnity to be given by a person applying for the payment of interest on such debentures or other securities alleged to have been wholly or partly lost, stolen or destroyed or for the issue of duplicate debentures or other securities;

(*i*) the conditions subject to which such debentures or other securities may be converted, consolidated or sub-divided;

(*j*) generally all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided debentures or other securities, and

(*k*) the fees to be levied in respect of the issue of duplicate debentures or other securities and of the renewal, conversion, consolidation and sub-division of the debentures or other securities issued by the Commissioners under this Act.

(2) The Commissioners in meeting may from time to time repeal, alter or add to any rule made under this section.

(3) No rule or repeal or alteration of, or addition to, a rule shall have effect until the same shall have been approved by the Central Government and such approval shall have been published in the Official Gazette.

(4) No rule and no repeal or alteration of, or addition to, any rule shall be approved by the Central Government until the same shall have been published in three consecutive issues of the Official Gazette.

(5) It shall be lawful for the Central Government at any time by notification in the Official Gazette to cancel any rule published under the provisions of this section.

27J. *Limitation of claims against sinking fund trustees in respect of debentures.*—Notwithstanding anything contained in the Indian Limitation Act, 1908 (IX of 1908), no claim shall lie against the trustees of the sinking fund in respect of any debenture issued by the Commissioners under this Act after the lapse of six years from the earliest date on which demand could have been made for the payment of the amount due on such debenture.

27K. *Power of Commissioners to borrow by means of temporary overdraft or otherwise.*—Notwithstanding anything contained in this Act, it shall be lawful for the Commissioners in meeting to borrow moneys by means of temporary overdraft or otherwise by pledging the debentures or other securities held by them in their reserve funds or on the security of their fixed deposits in their banks :

Provided that such temporary overdrafts or other loans—

(*a*) shall not at any time have a longer currency than six months, and

(*b*) shall not be taken without the previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds ten lakhs of rupees :

Provided further that all moneys so borrowed by temporary overdraft or otherwise shall be expended for the purposes of this Act.

27L. *Power of the Commissioners to raise loans under the Local Authorities Loans Act, 1914.*—Nothing contained in this Act shall be deemed to affect the power of the Commissioners in meeting to raise loans under the Local Authorities Loans Act, 1914 (IX of 1914)."

82. *Amendment of section 30, Bengal Act III of 1890.*—In the proviso to sub-section (2) of section 30 of the Calcutta Act, for the words, figures, brackets and letters "section 31, except clauses (*g*) and (*h*) thereof, section 32 or section 33" the words and figures "section 32" shall be substituted.

83. *Amendment of section 30A, Bengal Act III of 1890.*—In clause (*ii*) of section 30A of the Calcutta Act, after the words "widows or dependant children" the words "or other surviving dependant relatives" shall be inserted.

84. *Amendment of section 31, Bengal Act III of 1890.*—In section 31 of the Calcutta Act,—

(1) in sub-section (1)—

(*a*) the word "and" at the end of clause (*g*) shall be omitted;

(*b*) after clause (*g*), the following clause shall be inserted, namely:—

"(*gg*) for authorising the payment of contributions to any welfare fund or funds or loan fund or funds which may be established by the Commissioners for the benefit of their officers and servants:

Provided that no such welfare fund or loan fund shall be established without the previous sanction of the Central Government and the maximum rate of annual contribution to any such welfare fund or loan fund and the maximum amount to which any such fund may be allowed to accumulate shall be fixed from time to time by the Central Government."

(*c*) after clause (*h*), the following clause shall be inserted, namely:—

"(*i*) for regulating the recruitment, promotion, conduct, discipline, punishment and any other matter relating to the terms and conditions of service applicable to the officers and servants of the Commissioners, their rights and their privileges, not covered by any of the foregoing clauses.";

(2) In sub-section (3)—

(*a*) for the words, brackets and letters "clauses (*a*) to (*e*) (both inclusive) and under clauses (*g*) and (*h*)" the word, brackets and figure "sub-section (1)" shall be substituted.

85. *Substitution of new section for section 32, Bengal Act III of 1890.*—For section 32 of the Calcutta Act, the following section shall be substituted, namely:—

"32. *Appointments, etc., by whom to be made.*—(1) Subject to the provisions of the Schedule, for the time being in force, sanctioned by the Commissioners under section 30 and of the rules framed under section 31 and also to the provisions of section 34, the power of appointing, promoting, granting leave to, suspending, fining, reducing or dismissing, or of disposing of any other question relating to the services of, the officers and servants of the Commissioners including the power of dispensing with the services of any such officer or servant otherwise than by reason of such officer's or servant's own misconduct, shall be exercised, in the case of officers and servants whose maximum monthly salary exclusive of allowances is less than one thousand rupees, by the Chairman or the Deputy Chairman, and in every other case, by the Commissioners in meeting.

(2) The Chairman may, upon such terms as he may think fit and subject to the provisions referred to in sub-section (1) and to the Chairman's powers of revision and control, delegate to the head of any department for the time being all or any of his powers under the said sub-section

in respect of the officers and servants of that department whose monthly maximum salary exclusive of allowances does not exceed three hundred and fifty rupees.

(3) Notwithstanding anything contained in sub-section (1), the power to make appointment to the post of Deputy Chairman or to posts of heads of departments shall be exercisable only by the Central Government after consultation with the Chairman.

(4) The Central Government may by order specify each of the posts the incumbent of which shall for the purposes of this section be regarded as the head of a department."

86. *Amendment of section 32A, Bengal Act III of 1890.*—In section 32A of the Calcutta Act, for the words "shall be disposed of in such manner as the Commissioners may think fit" the words "shall be credited to any such welfare fund or funds as may be established by the Commissioners for the benefit of their officers and servants" shall be substituted.

87. *Repeal of section 33, Bengal Act III of 1890.*—Section 33 of the Calcutta Act is hereby repealed.

88. *Substitution of new section for section 34, Bengal Act III of 1890.*—For section 34 of the Calcutta Act, the following section shall be substituted, namely :—

"34. *Certain orders of Commissioners subject to previous sanction of Central Government.*—(1) Every order made by the Commissioners under section 30 or section 32, save where such order has been made in accordance with the rules, for the time being in force, framed under section 31, shall so far as the same relates to the Deputy Chairman or to any officer of the Commissioners whose maximum monthly salary exclusive of allowances is not less than one thousand rupees, be subject to the sanction of the Central Government.

(2) For the purposes of sub-section (1), any person who may, from time to time, be employed as Consulting Engineer to the Commissioners, otherwise than on the basis of payment of monthly salary, shall be deemed to be an officer whose maximum monthly salary exclusive of allowances is not less than one thousand rupees.'

89. *Amendment of section 35, Bengal Act III of 1890.*—To section 35 of the Calcutta Act, the following clause shall be added, namely :—

"(9) the sinking of tubewells and the equipment, maintenance and use of boats, barges and other appliances for the purpose of the supply of water to shipping at the port."

90. *Substitution of new section for section 38, Bengal Act III of 1890.*—For section 38 of the Calcutta Act, the following section shall be substituted, namely :—

"38. *Power to supersede the Commissioners.*—(1) If, at any time, it appears to the Central Government that the Commissioners are unable to perform, or have persistently made default in the performance of, the duties imposed on them by or under the provisions of this Act or of any other law, or have exceeded or abused their powers, or that any orders or directions lawfully made or given by the Central Government have not been or not likely to be carried out by the Commissioners, the Central

Government may, by notification in the Official Gazette, supersede the Commissioners for such period as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable time to the Commissioners to show cause why the Commissioners should not be superseded and shall consider the explanations and objections, if any, of the Commissioners.

(2) Upon the publication of a notification under sub-section (1) superseding the Commissioners, the following consequences shall ensue:—

(*a*) all the Commissioners shall, as from the date of supersession, vacate their offices as such Commissioners;

(*b*) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Commissioners, shall, until the Commissioners are reconstituted under clause (*b*) or clause (*c*) of sub-section (3), be exercised and performed by such person or persons as the Central Government may direct;

(*c*) all property vested in the Commissioners shall until the Commissioners are reconstituted under clause (*b*) or clause (*c*) of sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(*a*) extend the period of supersession for such further term as it may consider necessary; or

(*b*) reconstitute the Commissioners by fresh appointment and fresh election, and in such case any persons who vacated their offices under clause (*a*) of sub-section (2) shall not be deemed disqualified for appointment or election, as the case may be; or

(*c*) by notification in the Official Gazette direct that the Commissioners shall be reconstituted by the persons who vacated their offices under clause (*a*) of sub-section (2) and shall recommence functioning as if the Commissioners had not been superseded:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (*b*) or clause (*c*) of this sub-section."

91. *Repeal of section 39, Bengal Act III of 1890.*—Section 39 of the Calcutta Act is hereby repealed.

92. *Amendment of section 44, Bengal Act III of 1890.*—To sub-section (2) of section 44 of the Calcutta Act, the following shall be added, namely:—

"and shall, excepting such portion thereof as the Chairman may in any particular case direct, be open to the inspection also of the public at the office of the Commissioners during office hours on payment of such fee for each inspection as may from time to time be fixed by the Commissioners in meeting."

93. *Amendment of section 48, Bengal Act III of 1890.*—To section 48 of the Calcutta Act, the following proviso shall be added, namely :—

"Provided that no contract, under or by virtue of which a sum greater than two lakhs of rupees may in any event be payable by the Commissioners, shall be valid unless it has been made with the previous sanction of the Central Government."

94. *Amendment of section 49, Bengal Act III of 1890.*—In section 49 of the Calcutta Act, for the words "two thousand", the words "ten thousand" shall be substituted.

95. *Amendment of section 50, Bengal Act III of 1890.*—In section 50 of the Calcutta Act, for the words "one thousand", the words "ten thousand" shall be substituted.

96. *Amendment of section 51, Bengal Act III of 1890.*—To section 51 of the Calcutta Act, the following proviso shall be added, namely :—

"Provided that where the estimated cost of any new work has been approved by the Central Government, no expenditure which exceeds by more than ten per cent, the estimated cost so approved shall be incurred by the Commissioners without the previous approval of the Central Government."

97. *Amendment of section 52, Bengal Act III of 1890.*—To section 52 of the Calcutta Act, the following proviso shall be added, namely :—

"Provided that no settlement shall be made under this section without the previous sanction of the Central Government if such settlement involves the payment by the Commissioners of a sum exceeding twenty-five thousand rupees."

98. *Amendment of section 53, Bengal Act III of 1890.*—In sub-section (1) of section 53 of the Calcutta Act, for the words "one thousand", the words "ten thousand" shall be substituted.

99. *Amendment of section 55, Bengal Act III of 1890.*—In the proviso to section 55 of the Calcutta Act, for the words "ten years", the words "thirty years" shall be substituted.

100. *Amendment of section 57, Bengal Act III of 1890.*—In section 57 of the Calcutta Act, for the words "shall be held upon trust for the purposes of this Act and not otherwise", the words "shall be held by the Commissioners in trust for the purposes of this Act" shall be substituted.

101. *Repeal of section 64, Bengal Act III of 1890.*—Section 64 of the Calcutta Act is hereby repealed.

102. *Insertion of new Part IV-A in Chapter IV of Bengal Act III of 1890.*—In Chapter IV of the Calcutta Act, after Part IV, the following Part shall be inserted, namely :—

"PART IV-A—DISPOSAL OF FUNDS.

68B. *Application of moneys belonging to the Commissioners.*—Subject to the provisions of section 36 of the Indian Ports Act, 1908 (XV

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of 1908), the moneys belonging to the Commissioners shall be applied by them in payment of the following charges, namely :—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the Commissioners and to the officers and servants appointed under this Act ;

(2) the contributions, if any, duly authorised to be made—

(*a*) to any provident fund established by the said officers and servants, or

(*b*) to such provident fund, if any, as may be established under section 30A, or

(*c*) to such welfare fund or funds or loan fund or funds, if any, as may be established by the Commissioners for the benefit of such officers and servants :

Provided that any contribution to a welfare fund established by the Commissioners for the benefit of such officers and servants drawing not less than three hundred rupees a month shall not exceed the amount accruing from the following sources, namely :—

(*i*) fines levied from such officers and servants ;

(*ii*) unclaimed salaries of such officers and servants ;

(*iii*) forfeiture of contributions to the provident fund established under section 30A ;

(3) if any such provident fund or welfare fund or loan fund be established by the Commissioners, the cost and expenses, if any, which may be incurred by the Commissioners in the conduct and administration thereof ;

(4) the cost of repairs and maintenance of the property vested in the Commissioners and all charges upon the same and all working expenses ;

(5) the interest due on any money that may have been raised by the Commissioners under section 18 or section 22 ;

(6) the cost, or such portion of the cost of any new work, plant, vessel or appliance which the Commissioners may determine to charge to revenue ;

(7) the payment of pensions, gratuities and compassionate allowances granted by the Commissioners to their officers and servants injured, or surviving relatives of their officers or servants killed, in the execution of their duty ;

(8) the payment under clause (*ii*) of section 30A of bonuses to officers and servants appointed under this Act and to the widows or dependent children or other surviving dependent relatives of such of them as may die while still in the service of the Commissioners ;

(9) any other charge for the purposes of this Act or for which the Commissioners may be legally liable :

Provided that the Commissioners shall have power and shall be deemed always to have had power at any time to apply, with the sanction of the Central Government, the moneys belonging to them in payment of any other charge not included in the foregoing clauses of this section."

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103. *Insertion of new section 75A in Bengal Act III of 1890.*—After section 75 of the Calcutta Act, the following section shall be inserted, namely :—

"75A. *Capital expenditure.*—(1) No expenditure shall be charged by the Commissioners to capital without the previous sanction of the Central Government.

(2) Nothing in sub-section (1) shall require further sanction of the Central Government in the case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Central Government unless the excess is more than ten per cent of the expenditure so sanctioned."

104. *Amendment of section 76, Bengal Act III of 1890.*—For sub-section (2) of section 76 of the Calcutta Act, the following sub-section shall be substituted, namely :—

"(2) Within fourteen days after the audit and examination shall have been completed, the auditors shall report upon the accounts audited and examined, and shall forward copies of such report to the Central Government and to the Commissioners in meeting, and the Commissioners in meeting shall on receipt of such report cause the same to be deposited in the office of the Commissioners and to be published, together with an abstract of the accounts, in the Official Gazette."

105. *Insertion of new section 76A in Bengal Act III of 1890.*—After section 76 of the Calcutta Act, the following section shall be inserted, namely :—

"76A. *Commissioners to remedy defects and irregularities pointed out in the audit report and Central Government to pass final orders.*—(1) The Commissioners in meeting shall forthwith take into consideration any defects or irregularities that may be pointed out by the auditors in their report and shall pass such orders thereon as the Commissioners in meeting may think fit and shall also send a report of the action taken by the Commissioners to the Central Government.

(2) If there is a difference of opinion between the Commissioners and the auditors on any point included in the audit report and the Commissioners in meeting feel unable to accept the recommendations, if any, made by the auditors on such point, the matter shall forthwith be referred to the Central Government who shall pass final orders thereon and the Commissioners shall be bound to give effect to such orders."

106. *Amendment of section 79, Bengal Act III of 1890.*—In section 79 of the Calcutta Act, the words "not being a public department" shall be omitted.

107. *Insertion of new section 80A, in Part V of Chapter IV of Bengal Act III of 1890.*—In part V of Chapter IV of the Calcutta Act after section 80, the following section shall be inserted, namely :—

"80A. *Submission of accounts to the Central Government.*—(1) The Commissioners shall annually, or oftener, if directed by the Central Government so to do, submit statements of their receipts and disbursements to the Central Government in such form and at such time as that Government may direct.

(2) A copy of the such statements shall be open to the inspection of the public at the office of the Commissioners during office hours on payment of such fee for each inspection as may from time to time be fixed by the Commissioners in meeting."

108. *Amendment of section 90, Bengal Act III of 1890.*—Section 90 of the Calcutta Act shall be renumbered as sub-section (1) thereof, and—

(*a*) to the said sub-section, the following proviso shall be added, namely :—

"Provided also that it shall be lawful for the Commissioners in meeting in special cases to permit goods to be landed from, or shipped upon, any such sea-going vessel by persons other than the officers and servants or agents of the Commissioners."; and

(*b*) after the said sub-section as so renumbered, the following sub-section shall be inserted, namely :—

"(2) Notwithstanding anything contained in sub-section (1), the Commissioners may maintain and use lighters for the purpose of landing and shipment of goods between sea-going vessels at the port and the docks, wharves, quays, stages, jetties or piers erected by them."

109. *Amendment of section 93, Bengal Act III of 1890.*—In section 93 of the Calcutta Act,—

(*a*) the words "to require the Conservator of the Port or other persons exercising the rights, powers and authorities of the Conservator of the Port" shall be omitted;

(*b*) the following proviso shall be added at the end, namely :—

"Provided that if the Commissioners are not the Conservator of the port, they shall not themselves make the order as aforesaid but shall require the Conservator of the Port, or other person exercising the rights, powers and authorities of the Conservator of the Port, to make such order."

110. *Amendment of section 94, Bengal Act III of 1890.*—In section 94 of the Calcutta Act, for the words "Conservator of the Port" the words "Commissioners or as the case may be, the Conservator of the Port" shall be substituted.

111. *Substitution of new section for section 95, Bengal Act III of 1890.*—For section 95 of the Calcutta Act, the following section shall be substituted, namely :—

"95. *Power to direct goods not to be landed from or shipped upon sea-going vessels save at docks, etc., erected by Commissioners.*—Without the express sanction of the Commissioners in meeting and except in accordance with the conditions which the Commissioners in meeting may by resolution, prescribe, no goods shall be landed or shipped from or upon any sea-going vessel within the port save at the docks, wharves, quays, stages, jetties or piers erected under this Act."

112. *Amendment of section 105, Bengal Act III of 1890.*—In section 105 of the Calcutta Act, for the words "any vessel or goods" the words, figures, brackets and letters "vessels or goods excepting the services in respect of vessels for which fees are chargeable under the Indian Ports Act, 1908 (XV of 1908)" shall be substituted.

113. *Amendment of section 107, Bengal Act III of 1890.*—After sub-section (1) of section 107 of the Calcutta Act, the following sub-section shall be inserted, namely :—

"(1*a*) *Power to levy concessional rate of charges on coastal cargo.*—In framing scales under the foregoing provisions, the Commissioners in

meeting may prescribe a lower rate of charges in respect of cargo carried in a vessel from one Indian port to another.

Explanation.—In this section, the expression "Indian port" means any port on the Indian coast situate between the north-westernmost part of Saurashtra and the south-easternmost part of West Bengal including any port in the foreign settlements."

114. *Amendment of section 108, Bengal Act III of 1890.*—In section 108 of the Calcutta Act,—

(*a*) after the words "limits of the port" the words "or of the port approaches" shall be inserted;

(*b*) to the proviso, the following shall be added, namely:—

"or, according as the goods are landed or shipped within the limits of the port or of the port approaches."

115. *Insertion of new section 109A in Bengal Act III of 1890.*—After section 109 of the Calcutta Act, the following section shall be inserted, namely:—

"109A. *Power of Commissioners to remit tolls, etc.*—The Commissioners in meeting may, in special cases, for reasons to be recorded in writing, remit the whole or any portion of the tolls, dues, rates or charges leviable according to any scale for the time being in force under section 107 or section 109."

116. *Insertion of new section 119A in Bengal Act III of 1890.*—After section 119 of the Calcutta Act, the following section shall be inserted, namely:—

"119A. *Disposal of goods not removed from the premises of the Commissioners within time limited.*—(1) Notwithstanding anything contained in this Act, where any goods placed in the custody of the Commissioners upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Commissioners within one month from the date on which such goods were placed in their custody, the commissioners may, if the address of such owner or person is known, cause a notice to be served upon him by letter delivered at such address or sent by post, or if the notice cannot be served upon him or his address is not known, cause a notice to be published in the Official Gazette and also in at least one of the principal local daily newspapers, requiring him to remove the goods forthwith and stating that in default of compliance therewith the goods are liable to be sold by public auction:

Provided that where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice of removal shall be so served or published under this sub-section unless two months have expired from the date on which the goods were placed in the custody of the Commissioners.

(2) If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section (1), the Commissioners may, at any time after the expiration of two months from the date on which such goods were placed in their custody, sell the goods by public auction after giving notice of the sale in the manner prescribed in section 119.

(3) The Central Government may, by notification in the Official Gazette, exempt any goods or class of goods from the operation of this section."

117. *Amendment of section 120, Bengal Act III of 1890.*—In sub-section (1) of section 120 of the Calcutta Act, for the words "In every case of any such sale as aforesaid", the words, figures and letter "In the case of any sale under section 118 or section 119A" shall be substituted.

118. *Insertion of new section 122D in Part IX of Chapter IV of Bengal Act III of 1890.*—In Part IX of Chapter IV of the Calcutta Act, after section 122C, the following section shall be inserted, namely :—

"122D. *Alternative remedy by suit.*—Notwithstanding anything contained in section 111 and in sections 116 to 122 (both inclusive), the Commissioners may recover by suit any tolls, dues, rates, rents, charges, damages, expenses, costs or in case of sale, the balance thereof when the proceeds of sale are insufficient, or any penalties or fines payable to, or recoverable by, the Commissioners under this Act or under any bye-laws made in pursuance thereof."

119. *Substitution of new section for section 123, Bengal Act III of 1890.*—For section 123 of the Calcutta Act, the following section shall be substituted, namely :—

"123. (1) *Moneys received by the Commissioners as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.*—All moneys received by the Commissioners as the Conservator of the Port and of the Port approaches, or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908 (XV of 1908), excluding all fees and all fines and penalties creditable to the pilotage account of the port under sub-section (*5a*) of that section shall be deemed to be a portion of the income of the Commissioners and shall be included in their annual estimates and accounts.

(2) *Powers, etc., of the Commissioners as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.*—All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised shall apply to the works which may be executed by the Commissioners as such Conservator or body, not being the works the cost of which is chargeable to the pilotage account of the port under sub-section (*5b*) of section 36 of the Indian Ports Act, 1908, and also to the sanction of such works, the estimates therefor and the expenditure thereunder."

120. *Repeal of section 124, Bengal Act III of 1890.*—Section 124 of the Calcutta Act is hereby repealed.

121. *Amendment of section 126, Bengal Act III of 1890.*—In sub-section (4) of section 126 of the Calcutta Act, for the words "in three consecutive numbers of the Official Gazette" the words "once in the Official Gazette and also in three successive issues of at least two of the principal local daily newspapers" shall be substituted.

122. *Insertion of new sections 134A and 134B in Chapter X of the Bengal Act III of 1890.*—In Chapter X of the Calcutta Act under the heading "Miscellaneous" before section 135, the following sections shall be inserted, namely :—

"134A. *Supply of reports, returns, etc., to the Central Government.*—The Chairman shall furnish to the Central Government such reports,

returns, documents or other information relating to the work of the Commissioners under this Act as may, from time to time, be called for by the Central Government.

134B. *Annual administration report of the port.*—As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Central Government, the Commissioners shall submit to the Central Government a detailed report of the administration of the port during the preceding year ending on the thirty-first day of March in such form as the Central Government may direct."

123. *Substitution of new sections for section 136, Bengal Act III of 1890.*—For section 136 of the Calcutta Act, the following sections shall be substituted, namely :—

"136. *Persons employed under this Act to be public servants for certain purposes.*—Every person employed under this Act shall, for the purposes of sections 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code (Act XLV of 1860) and for the purposes of the Prevention of Corruption Act, 1947 (II of 1947), be deemed to be a public servant within the meaning of section 21 of the said Code.

136A. *Power to evict certain persons from the premises belonging to the Commissioners.*—(1) Notwithstanding anything contained in any other law, if the Commissioners, in exercise of the powers conferred on them by rules made under this Act, cancel the allotment of any premises made to any officer or servant of the Commissioners, the Commissioners may, by notice in writing, order such allottee or any other persons who may be in occupation of the whole or any part of the premises to vacate them and deliver the same to them or a person appointed by them in that behalf within such period as may be specified in the notice.

Explanation.—For the purposes of this section, "premises" means any building or part of a building and includes—

(*i*) the gardens, grounds and outhouses, if any, appertaining to such building or part of a building;

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and

(*iii*) any furniture, books or other things belonging to the commissioners and found in such building or part of a building.

(2) If any allottee or other person refuses or fails to comply with an order made under sub-section (1), any presidency-magistrate or magistrate of the first class may, on application made by or on behalf of the Commissioners, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Commissioners or a person appointed by them in that behalf and the police officer may, for that purpose, use such force as may be necessary.

(3) Any such notice as is referred to in sub-section (1) may served :—

(*a*) by delivering or tendering it to the allottee or any other person who may be in occupation of the whole or any part of the premises, or

(*b*) by affixing it on the outer door or some other conspicuous part of the premises, or

(*c*) by post."

124. *Insertion of new section 143 in Chapter X of the Bengal Act III of 1890.*—In Chapter X of the Calcutta Act, after section 142, the following section shall be inserted, namely :—

"143. *Application of certain provisions of the Act to aircraft.*—The provisions of sections 35, 89, 91, 97, 99 to 102 (both inclusive), 104, 104A, 105, 106, 121, 122, 126 and 135 shall apply in relation to all aircraft making use of the port while on water as they apply in relation to vessels."

CHAPTER IV

Amendment of Madras Act II of 1905

125. *Amendment of section 5, Madras Act II of 1905.*—In section 5 of the Madras Port Trust Act, 1905 (hereinafter in this Chapter referred to as the Madras Act),—

(*a*) in clause (6)—

(*i*) after the words "any vessel", the words "or any aircraft making use of the port" shall be inserted;

(*ii*) after the words "such vessel", the words "or such aircraft, as the case may be," shall be inserted;

(*iii*) the words "of the port" shall be added at the end.

(*b*) in clause (7), after the words "any vessel", the words "or any aircraft making use of the port" shall be inserted;

(*c*) after clause (11), the following clause shall be inserted, namely :—

"(11*a*) 'public securities' means—

(*a*) promissory notes, debentures, stock or other securities of the Central Government or of any State Government,

(*b*) debentures or other securities for money issued by or on behalf of any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in India, and includes the Port Trust securities";

(*d*) in clause (13), after the word "conveyance", the word "principally" shall be inserted;

(*e*) the sentence commencing with the words "Any requirement in this Act" and ending with the words "Official Gazette of the Province" shall be omitted.

126. *Insertion of new section 5A in Chapter I of Madras Act II of 1905.*—In Chapter I of the Madras Act, after section 5, the following section shall be inserted, namely :—

"5A. *Requirements as to publication of notifications, orders, etc., in the Official Gazette.*—Any requirement in this Act that a notification, order, rule or bye-law issued or made by the Board or by the Central Government shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule or bye-law shall—

(*a*) where it is issued or made by the Board, be published in the Official Gazette of the State, and

(*b*) where it is issued or made by the Central Government, be published in the *Gazette of India*."

127. *Substitution of new section for section 9, Madras Act II of 1905.*—For section 9 of the Madras Act, the following section shall be substituted, namely :—

"9. *Appointment of Trustees by the Central Government and publication of names of elected Trustees.*—(1) The Trustees other than the Chairman and those who are *ex-officio* Trustees or elected Trustees shall be appointed either by name or by virtue of office by the Cenertal Government by notification in the Official Gazette.

(2) The names of persons elected as Trustees shall be published by the Central Government in the Official Gazette."

128. *Amendment of section 10, Madras Act II of 1905.*—In section 10 of the Madras Act,—

(1) in sub-section (1),—

(*a*) for the words "No person shall be qualified to be a Trustee who", the following shall be substituted, namely :—

"A person shall be disqualified to be an elected Trustee or to be a Trustee appointed by name, if he";

(*b*) clause (*a*) shall be omitted;

(*c*) for clause (*b*), the following clause shall be substituted, namely :—

"(*b*) has been convicted and sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed, unless the Central Government has by order removed the disqualification";

(*d*) in clause (*c*), the words "uncertificated bankrupt, or" shall be omitted;

(*e*) the proviso to clause (*d*) shall be omitted;

(*f*) to clause (*e*), the following shall be added, namely :—

"unless the Central Government has by order removed the disqualification;";

(*g*) in clause (*vi*), for the words "two thousand", the words "ten thousand" shall be substituted;

(2) in sub-section (2),—

(*a*) for the words "Any Trustee", the words "Any elected Trustee or any Trustee appointed by name" shall be substituted;

(*b*) at the end of clause (*c*), the word "or" shall be added; and

(*c*) after clause (*c*), the following clause shall be inserted, namely :—

"(*d*) acts in contravention of the provisions of section 23A,".

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129. *Substitution of new section for section 11, Madras Act II of 1905.*—For section 11 of the Madras Act, the following section shall be substituted, namely.—

"11. *Term of office of Chairman and other Trustees.*—(1) The Chairman shall hold office during the pleasure of the Central Government.

(2) Subject to the provisions of sections 10, 11A, 13, 13A and 20, an elected Trustee or a Trustee appointed by name shall hold office for a term of two years commencing on the first day of April next following the election or appointement, as the case may be, of such Trustee.

(3) Subject to the provisions of section 11A, a Trustee appointed by the Central Government by virtue of an office shall, until the Central Government by notification in the Official Gazette otherwise direct, continue to be a Trustee so long as he continues to hold that office.

(4) The term of office of every Trustee appointed by name or elected as such and holding office on the 1st day of April next following the commencement of the Port Trusts and Ports (Amendment) Act, 1950, shall be deemed to have expired on that day."

130. *Insertion of new sections 11A and 11B in Madras Act II of 1905.*—After section 11 of the Madras Act, the following sections shall be inserted, namely :—

"11A. *Resignation of Trustees.*—An elected Trustee or a Trustee appointed by the Central Government, whether by name or by virtue of an office, may at any time resign his office by giving notice in writing to the Central Government, and on such resignation being accepted by that Government, he shall cease to be a Trustee, and his office shall thereupon become vacant.

11B. *Filling of vacancies in the office of Trustees.*—(1) Every Vacancy in the office of an elected Trustee or of a Trustee appointed by name caused by the expiration of the term of office of such Trustee shall be filled by election or appointment, as the case may be, within one month immediately preceding the date of expiration of such term.

(2) Every vacancy in the office of a Trustee appointed by the Central Government by virtue of an office caused by the expiration of the term of office of such Trustee or otherwise shall be filled by appointment within one month of the occurrence of such vacancy."

131. *Amendment of section 12, Madras Act II of 1905.*—In section 12 of the Madras Act, for the words "a Trustee", the words "an elected Trustee or a Trustee appointed by name" shall be substituted.

132. *Substitution of new sections for section 13, Madras Act II of 1905.*—For section 13 of the Madras Act, the following sections shall be substituted, namely :—

"13. *Filling of casual vacancies.*—Any casual vacancy in the office of an elected Trustee or of a Trustee appointed by name caused by the death or resignation of such Trustee or by virtue of the provisions of sub-section (2) of section 10, shall be filled within one month by election or appointment, as the case may be, in the manner hereinbefore provided :

Provided that the Trustee so elected or appointed shall retain his office so long only as the vacating Trustee would have retained the same if such vacancy had not occurred.

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13A. *Saving provision for appointment of Trustees after the prescribed period.*—Nothing in the foregoing provisions shall prevent a person being appointed by the Central Government to fill any vacancy in the office of a Trustee appointed by the Central Government either by name or by virtue of an office after the expiration of the period specified therefor in section 11B or section 13, as the case may be, if for any reason it has not been possible for the Central Government to make the appointment within the said period :

Provided that where a person is appointed a Trustee by name to fill any such vacancy as is referred to in section 11B after the expiration of the period specified therefor in that section, the term of office of such Trustee shall commence on the date on which his appointment is notified in the Official Gazette and shall expire on the date on which his term of office would have expired if his appointment had been made within the period so specified."

133. *Substitution of new section for section 20, Madras Act II of 1905.*—For section 20 of the Madras Act, the following section shall be substituted, namely :—

"20. *Appointment of acting Trustees.*—(1) If an elected Trustee or a Trustee appointed by name departs from Madras with an intention of being absent for a longer period than three months, or if such a Trustee shall have been absent for such period, a person shall be elected or appointed, as the case may be, to act for such Trustee during his absence or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

(2) Nothing in sub-section (1) shall prevent a person being elected or appointed for a period not longer than three months in the place of an absent Trustee, on the application of the Board if the absentee be an elected Trustee, or at the discretion of the Central Government if he be a Trustee appointed by name or by virtue of an office."

134. *Amendment of section 21, Madras Act II of 1905.*—In section 21 of the Madras Act, for the words "leave allowances or other allowances", the words "leave salary or allowances, if any," shall be substituted.

135. *Insertion of new sections 21A and 21B in Madras Act II of 1905.*—After section 21 of the Madras Act, the following sections shall be inserted, namely :—

"21A. *Pension for Chairman.*—It shall be lawful for the Central Government to fix the amount of pension, gratuity or compassionate allowance, if any, which shall be paid to the Chairman on his retirement from office and to determine the conditions under which the said pension, gratuity or compassionate allowance shall be so payable.

21B. *Permission to Chairman to join Provident Fund.*—Notwithstanding anything contained in this Act, it shall be lawful for the Central Government to permit the Chairman to join the Provident Fund established by the Board under clause (6) of section 28 for the benefit of the officers and servants appointed under this Act and to determine the conditions and restrictions upon and under which such permission may be given."

136. *Amendment of section 22, Madras Act II of 1905.*—In section 22 of the Madras Act,—

(*a*) after the words " the fees.", the words " if any " shall be inserted;

(*b*) after the word " Chairman ", the words " or to any class of Trustees not including the Chairman " shall be inserted.

137. *Amendment of section 23, Madras Act II of 1905.*—In clause (1) of section 23 of the Madras Act,—

(*a*) to sub-clause (*g*), the following shall be added, namely:—

" and the said minutes, excepting such portion thereof as the Chairman may in any particular case direct, shall also be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time be fixed by the Board;"

(*b*) in sub-clause (*i*), the words " and shall be published in the Official Gazette " shall be omitted.

138. *Amendment of section 26, Madras Act II of 1905.*—Clause (3) of section 26 of the Madras Act shall be omitted.

139. *Amendment of section 28, Madras Act II of 1905.*—In section 28 of the Madras Act,—

(*a*) after clause (6), the following clause shall be inserted, namely:—

" (6*a*) *Contributions to welfare fund.*—For authorising the payment of contributions to any welfare fund or funds which may be established by the Board for the benefit of the officers and servants appointed under this Act:

Provided that no such welfare fund shall be established without the previous sanction of the Central Government, and the maximum rate of annual contribution to any such welfare fund and the maximum amount to which any such welfare fund may be allowed to accumulate, shall be fixed from time to time by the Central Government;"

(*b*) after clause (7), the following clause shall be inserted, namely:—

"(8) *Matters relating to terms and conditions of service not covered by other clauses.*—For regulating the recruitment, promotion, conduct, discipline, punishment and any other matter relating to the terms and conditions of service applicable to the officers and servants of the Board, their rights and their privileges, not covered by any of the foregoing clauses.";

(*c*) for the word and figures " section 94 ", the words, brackets, figures and letters " sub-section (5*b*) of section 36 of the Indian Ports Act, 1908 (XV of 1908) " shall be substituted;

(*d*) for the proviso, the following proviso shall be substituted, namely:—

" Provided that the regulations framed under this section shall not take effect unless and until they have been approved by the Central Government."

140. *Amendment of section 28A, Madras Act II of 1905.*—In section 28A of the Madras Act,—

(*a*) the words, brackets and figures "clauses (5) to (7) of" shall be omitted;

(*b*) for the word and figures "section 94" the words, brackets, figures and letters "sub-section (5b) of section 36 of the Indian Ports Act, 1908" shall be substituted.

141. *Substitution of new sections for section 29, Madras Act II of 1905.*—For section 29 of the Madras Act, the following sections shall be substituted, namely:—

"29. *Appointments, etc., by whom to be made.*—(1) Subject to the provisions of the Schedule, for the time being in force sanctionepd by the Board under section 27 and of the regulations and rules made by the Board under sections 28 and 92 and also to the provisions of section 30, the power of appointing, promoting, granting leave to, suspending, fining, reducing or dismissing, or of disposing of any other question relating to the services of, the officers and servants of the Board including the power of dispensing with the services of any such officer or servant otherwise than by reason of such officer's or servant's own misconduct shall be exercised, in the case of officers and servants whose maximum monthly salary exclusive of allowances is less than one thousand rupees, by the Chairman and in every other case, by the Board.

(2) The Chairman may upon such terms as he may think fit and subject to the provisions referred to in sub-section (1) and to the Chairman's powers of revision and control, delegate to the head of any department for the time being all or any of his powers under the said sub-section in respect of the officers and servants of that department whose monthly maximum salary exclusive of allowances does not exceed three hundred and fifty rupees.

(3) Notwithstanding anything contained in sub-section (1), the power to make appointment to posts of heads of departments shall be exercisable only by the Central Government after consultation with the Chairman.

(4) The Central Government may by order specify each of the posts the incumbent of which shall, for the purposes of this section, be regarded as the head of a department.

29A. *Disposal of fines realised under section 29.*—Notwithstanding anything contained in section 74, all fines realised under section 29 shall be credited to any such welfare fund or funds as may be established by the Board for the benefit of the officers and servants appointed under this Act."

142. *Substitution of new section for section 30, Madras Act II of 1905.*—For section 30 of the Madras Act, the following section shall be substituted, namely:—

"30. *Sanction of Central Government when necessary.*—(1) Every order made by the Board under section 27 or section 29, save where such order has been made in accordance with the regulations, for the time being in force, framed under section 28, shall, so far as the same relates to any officer of the Board whose maximum monthly salary exclusive of allowances is not less than one thousand rupees, be subject to the sanction of the Central Government.

(2) For the purposes of sub-section (1), any person who may, from time to time, be employed as Consulting Engineer to the Board otherwise than on the basis of payment of monthly salary shall be deemed to be an officer whose maximum monthly salary exclusive of allowances is not less than one thousand rupees."

143. *Amendment of section 32, Madras Act II of 1905.*—In the second proviso to section 32 of the Madras Act, for the words "ten years", the words "thirty years" shall be substituted.

144. *Amendment of section 38, Madras Act II of 1905.*—In section 38 of the Madras Act, after the words "restoration, completion, construction", the words "repair" shall be inserted.

145. *Insertion of new section 38A in Madras Act II of 1905.*—After section 38 of the Madras Act, the following section shall be inserted, namely :—

"38A. *Powers, etc., of the Board as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.*—All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised shall apply to the works which may be executed by the Board as the Conservator of the Port or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908 (XV of 1908), not being works the cost of which is chargeable to the pilotage account of the port under sub-section (5*b*) of that section, and also to the sanction of such works, the estimates therefor and the expenditure thereunder."

146. *Amendment of section 40, Madras Act II of 1905.*—In sub-section (2) of section 40 of the Madras Act, after the words "such loss" the words "or damage" shall be inserted.

147. *Amendment of section 42, Madras Act II of 1905.*—In clause (*e*) of section 42 of the Madras Act, the following shall be added at the end, namely :—

"excepting the services in respect of vessels for which fees are chargeable under the Indian Ports Act, 1908 (XV of 1908)."

148. *Insertion of new section 43B in Madras Act II of 1905.*—After section 43A of the Madras Act, the following section shall be inserted, namely :—

"43B. *Power to levy concessional rate of charges on coastal cargo.*—In framing scales under any of the foregoing provisions of this Chapter, the Board may prescribe a lower rate of charges in respcet of cargo carried in a vessel from one Indian port to another.

Explanation.—In this section, the expression "Indian port" means any port on the Indian coast situate between the north-westernmost part of Saurashtra and the south-easternmost part of West Bengal including any port in the foreign settlements."

149. *Amendment of section 44, Madras Act II of 1905.*—In section 44 of the Madras Act,—

(*a*) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1*a*) *Power of Central Government to cancel scale of tolls, etc.*—It shall be competent for the Central Government at any time to cancel any of the scales framed under the foregoing provisions of this

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chapter, or to call upon the Board to modify any portion of such scales, and thereupon the Board shall modify such scales accordingly.";

(*b*) in sub-section (2), for the words "with the previous sanction of the Central Government" the words "for reasons to be recorded in writing" shall be substituted.

150. *Substitution of new section for section 49, Madras Act II of 1905.*—For section 49 of the Madras Act, the following section shall be substituted, namely :—

"49. *Moneys received by the Board as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.*—All moneys received by the Board as the Conservator of the Port or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908 (XV of 1908) excluding all fees and all fines and penalties creditable, to the pilotage account of the Port under sub-section (*5a*) of that section, shall be deemed to be a portion of the income of the Board and shall be included in its annual estimates and accounts."

151. *Insertion of new section 58A in Madras Act II of 1905.*—After section 58 of the Madras Act, the following section shall be inserted, namely :—

"58A. *Disposal of goods not removed from the premises of the Board within time limited.*—(1) Notwithstanding anything contained in this Act, where any goods placed in the custody of the Board upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Board within one month from the date on which such goods were placed in the custody of the Board, the Board may, if the address of such owner or person is known, cause a notice to be served upon him by letter delivered at such address or sent by post, or if the notice cannot be so served upon him or his address is not known, cause a notice to be published in the Official Gazette and also in at least one of the principal local daily newspapers, requiring him to remove the goods forthwith and stating that in default of compliance therewith the goods are liable to be sold by public auction :

Provided that where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice of removal shall be so served or published under this sub-section unless two months have expired from the date on which the goods were placed in the custody of the Board.

(2) If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section (1), the Board may at any time after the expiration of two months from the date on which such goods were placed in the custody of the Board, sell the goods by public auction after giving notice of the sale in the manner specified in sections 57 and 58.

(3) The Central Government may, by notification in the Official Gazette, exempt any goods or class of goods from the operation of this section."

152. *Amendment of section 59, Madras Act II of 1905.*—In sub-section (1) of section 59 of the Madras Act, for the words "The proceeds of every such sale" the words, figures and letters "The proceeds of every sale under section 56 or section 58A" shall be substituted.

153. *Substitution of new sections for sections 64A and 64B, Madras Act II of 1905.*—For sections 64A and 64B of the Madras Act, the following sections shall be substituted, namely :—

"64A. *Right of survivors of joint or several payees of securities.*—(1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872 (IX of 1872),—

(*a*) when any Port Trust security is payable to two or more persons jointly and either or any of them dies, the Port Trust security shall be payable to the survivor or survivors of those persons, and

(*b*) when any such security is payable to two or more persons severally and either or any of them dies, the security shall be payable to the survivor or survivors of those persons or to the representatives of the deceased or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after the commencement of this Act.

(3) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which sub-section (1) applies.

(4) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913 (VII of 1913), or the Co-operative Societies Act, 1912 (II of 1912), or any other enactment for the time being in force, whether within or without India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

64B. *Power of one of two or more joint holders to grant receipts.*—Where two or more persons are joint holders of any Port Trust security, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such security, unless notice to the contrary has been given to the Board by any other of the holders.

64C. *Indorsements to be made on security itself.*—Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881 (XXVI of 1881), no indorsement of a Port Trust security which is transferable by indorsement shall be valid unless made by the signature of the holder inscribed on the back of the security itself.

64D. *Indorser of security not liable for amount thereof.*—Notwithstanding anything in the Negotiable Instruments Act, 1881 (XXVI of 1881), a person shall not by reason only of his having indorsed any Port Trust security be liable to pay any money due either as principal or as interest thereunder.

64E. *Impression of signature on securities.*—(1) The signature of the person authorised to sign Port Trust securities on behalf of the Board may be printed, engraved or lithographed, or impressed by such other mechanical process as the Board may direct on such securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

64F. *Issue of duplicate securities.*—(1) When any Port Trust security is alleged to have been lost, stolen or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss, theft or destruction it would be payable, he may, on application to the Board, and on producing proof to its satisfaction of the loss, theft or destruction and of

the justice of the claim and on payment of the prescribed fee, if any, obtain from the Board an order for—

(*a*) the payment of interest in respect of the security said to be lost, stolen or destroyed pending the issue of a duplicate security; and

(*b*) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss, theft or destruction.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the prescribed manner.

(4) If at any time before the Board becomes discharged under the provisions of this Act from liability in respect of any security the whole of which is alleged to have been lost, stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled.

64G. *Issue of converted, etc., securities.*—(1) The Board may, subject to such conditions as may be prescribed, on the application of a person claiming to be entitled to a Port Trust security or securities, on being satisfied of the justice of the claim and on delivery of the security or securities receipted in the prescribed manner and on payment of the prescribed fee, if any, convert, consolidate or sub-divide the security or securities, and issue to the applicant a new security or securities accordingly.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into a security or securities of the same or different classes or of the same of different loans.

64H. *Discharge in certain cases.*—Notwithstanding anything in section 10 of the Indian Limitation Act, 1908 (IX of 1908)—

(*i*) on payment of the amount due on a Port Trust security on or after the date on which payment becomes due, or

(*ii*) when a duplicate security has been issued under section 64F, or

(*iii*) when a new security or securities has or have been issued upon conversion, consolidation or sub-division under section 64G,

the Board shall be discharged from all liability in respect of the security or securities so paid or in place of which a duplicate or new security or securities has or have been issued—

(*a*) in the case of payment—after the lapse of six years from the date on which payment was due;

(*b*) in the case of a duplicate security—after the lapse of six years from the date of the publication under sub-section (3) of section 64F of the list in which the security is first mentioned or from the date of the last payment of interest on the original security, whichever date is later;

(*c*) in the case of a new security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

64I. *Power to make rules.*—(1) The Board may from time to time make rules to provide for all or any of the following matters, namely :—

(*a*) the person, if any, authorised to sign, the mode of affixing the corporate seal and of attestation of documents relating to Port Trust securities ;

(*b*) the manner in which payment of interest in respect of Port Trust securities is to be made and acknowledged ;

(*c*) the circumstances and the manner in which Port Trust securities may be renewed ;

(*d*) the circumstances in which such securities must be renewed before further payment of interest thereon can be claimed ;

(*e*) the form in which securities delivered for renewal, conversion, consolidation or sub-division are to be receipted ;

(*f*) the proof which is to be produced by persons applying for duplicate securities ;

(*g*) the form and manner of publication of the notification mentioned in sub-section (2) of section 64F and the manner of publication of the list mentioned in sub-section (3) of that section ;

(*h*) the nature and amount of indemnity to be given by a person applying for the payment of interest on Port Trust securities alleged to have been wholly or partly lost, stolen or destroyed, or for the issue of duplicate Port Trust securities ;

(*i*) the conditions subject to which Port Trust securities may be converted, consolidated or sub-divided ;

(*j*) the amounts for which stock certificates may be issued ;

(*k*) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided securities ;

(*l*) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and sub-division of Port Trust securities.

(*m*) the fees to be levied in respect of the issue of stock certificates.

(2) The power to make rules under sub-section (1) is subject to the following conditions :—

(*a*) A draft of the rules shall be published in three consecutive issues of the Official Gazette.

(*b*) The same shall have no effect until approved by the Central Government after such publication and until such approval has also been published in the Official Gazette.

(*c*) It shall be lawful for the Central Government at any time by notification to cancel any rule published under the provisions of this section.

64J. *Limitation of claims against sinking fund trustees in respect of securities issued by the Board.*—Notwithstanding anything contained in the Indian Limitation Act, 1908 (IX of 1908), no claim shall lie against the trustees of the sinking fund in respect of any security issued by the Board after the lapse of six years from the earliest date on which demand could have been made for the payment of the amount due on such security ".

154. *Amendment of section 68, Madras Act II of 1905.*—In section 68 of the Madras Act, for the words "may apply any sums" the words "may, with the previous sanction of the Central Government, apply any sums out of moneys which may come into its hands under the provisions of this Act and" shall be substituted.

155. *Amendment of section 70, Madras Act II of 1905.*—In sub-section (1) of section 70 of the Madras Act, for the words "in securities of the Central Government or in Port Trust securities" the words "in public securities or in such other securities as the Central Government may approve in this behalf" shall be substituted.

156. *Amendment of section 71, Madras Act II of 1905.*—Section 71 of the Madras Act shall be renumbered as sub-section (1) thereof, and—

(*a*) in the said sub-section—

(*i*) for the words "current value" the words "current market value" shall be substituted;

(*ii*) the words "unless the Central Government specifically sanctions a gradual readjustment" shall be added at the end; and

(*b*) after the said sub-section as so renumbered, the following sub-section shall be inserted, namely:—

"(2) If the cash and the current market value of the securities at the credit of the sinking fund are in excess of the amount which should be at its credit, the Accountant-General shall certify the amount of this excess and the Board may, with the previous sanction of the Central Government,—

(*a*) withdraw the whole or any part of the certified excess, in which case the Trustees in whose names the sinking fund is invested under sub-section (1) of section 70 shall forthwith transfer securities of the requisite current market value, or cash and securities of the requisite current market value, to the Board; or

(*b*) reduce or discontinue the half-yearly contributions to the sinking fund required under section 69; or

(*c*) adopt a combination of these measures."

157. *Insertion of new section 72A in Madras Act II of 1905.*—After section 72 of the Madras Act, the following section shall be inserted, namely:—

"72A. *Power of Board to borrow by means of temporary overdraft or otherwise.*—Notwithstanding anything contained in this Act, it shall be lawful for the Board to borrow moneys by means of temporary overdraft or otherwise by pledging the securities held by the Board in its reserve funds or on the security of the fixed deposits of the Board in its banks:

Provided that such temporary overdrafts or other loans—

(*a*) shall not at any time have a longer currency than six months; and

(*b*) shall not be taken without the previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds ten lakhs of rupees:

Provided further that all moneys so borrowed by temporary overdraft or otherwise shall be expended for the purposes of this Act."

158. *Amendment of section 74, Madras Act II of 1905.*—In section 74 of the Madras Act,—

(*a*) for the words and figures "section 94" the words, brackets, figures and letters "sub-section (*5b*) of section 36 of the Indian Ports Act, 1908 (XV of 1908)" shall be substituted;

(*b*) after clause (6), the following clauses shall be inserted, namely :—

"(6*a*) the payment of such sums as may from time to time be agreed upon by the Central Government and the State Government or by the Board and the State Government as a reasonable contribution on account of expenses in connection with the watch and ward functions of the harbour police and the police employed for guarding the docks, warehouses and other property of the Board;

(6*b*) any other charge which may on the application of the Board be specially sanctioned by the Central Government or for which the Board may be legally liable;".

159. *Amendment of section 74A, Madras Act II of 1905.*—In sub-section (2) of section 74A of the Madras Act, for the words "in the securities of the Central Government or in Port Trust Securities" the words "in public securities or in such other securities as the Central Government may approve in this behalf" shall be substituted.

160. *Insertion of new sections 74B and 74C in Madras Act II of 1905.*—After section 74A of the Madras Act, the following sections shall be inserted, namely :—

"74B. *Board may invest in its own securities.*—(1) For the purposes of any investment which the Board is authorised to make by this Act, it shall be lawful for the Board to reserve and set apart any securities to be issued by it on account of any loan to which the consent of the Central Government has been given, provided that the intention to so reserve and set apart such securities shall have been notified as a condition to the issue of the loan.

(2) The issue of any such securities direct to, and in the name of "The Trustees of the Port of Madras", shall not operate to extinguish or cancel such securities, but every security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(3) The purchase by the Board or the transfer, assignment or indorsement to the Trustees of the sinking fund or the Board, of any security issued by the Board, shall not operate to extinguish or cancel any such security, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or indorsed to, any other person.

(4) All securities of the Board heretofore purchased by, issued, transferred or assigned to, or indorsed into the name of the Trustees of the Port of Madras, or any person on their behalf, and all securities heretofore issued by way of renewal, consolidation or sub-division of any such securities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned or indorsed to any other person.

74C. *Power to transfer moneys from the general account to the pilotage account and* vice versa.—The Board may, with the previous sanction of the Central Government, apply any sum out of the moneys

credited to the general account of the Port towards meeting deficits, if any, in the pilotage account of the Port maintained under section 36 of the Indian Ports Act, 1908 (XV of 1908), or transfer the whole or any part of any surplus funds in such pilotage account to the general account of the Port."

161. *Amendment of section 75, Madras Act II of 1905.*—Section 75 of the Madras Act shall be renumbered as sub-section (1) thereof and to the said section as so renumbered, the following sub-section shall be added, namely :—

"(2) Nothing in sub-section (1) shall require further sanction of the Central Government in the case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Central Government unless the excess is more than ten per cent of the expenditure so sanctioned."

162. *Amendment of section 76, Madras Act II of 1905.*—In section 76 of the Madras Act,—

(*a*) for the words "two thousand rupees," the words "ten thousand rupees" shall be substituted;

(*b*) for the words "fifty thousand rupees" the words "one lakh of rupees" shall be substituted;

(*c*) the following proviso shall be added at the end, namely :—

"Provided that where the estimated cost of any new work or appliance has been sanctioned by the Central Government, no expenditure which exceeds by more than ten per cent the estimated cost so sanctioned shall be incurred by the Board without the previous sanction of the Central Government."

163. *Insertion of new section 76A in Madras Act II of 1905.*—After section 76 of the Madras Act, the following section shall be inserted, namey :—

"76A. *Powers of Chairman as to execution of works.*—Notwithstanding anything contained in section 76, the Chairman may direct the execution of any work the cost of which does not exceed ten thousand rupees, and may enter into contracts for the execution of such works."

164. *Repeal of sections 77 and 78, Madras Act II of 1905.*—Sections 77 and 78 of the Madras Act are hereby repealed.

165. *Insertion of new section 80A in Madras Act II of 1905.*—After section 80 of the Madras Act, the following section shall be inserted, namely :—

"80A. *Board to remedy defects and irregularities pointed out in the audit report and Central Government to pass final orders.*—(1) The Board shall forthwith take into consideration any defects or irregularities that may be pointed out by the Auditors in their report and shall pass such orders thereon as the Board may think fit and shall also send a report of the action taken by the Board to the Central Government.

(2) If there is a difference of opinion between the Board and the Auditors on any point included in the audit report and the Board feels unable to accept the recommendation, if any, made by the Auditors on such point, the matter shall forthwith be referred to the Central Government who shall pass final orders thereon and the Board shall be bound to give effect to such orders."

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166. *Amendment of section 82, Madras Act II of 1905.*—In section 82 of the Madras Act, for the words "in such form" the words "in such detail and form" shall be substituted.

167. *Insertion of new sections 86A, 86B and 86C in Madras Act II of 1905.*—After section 86 of the Madras Act, the following sections shall be inserted, namely :—

"86A. *Re-appropriation of amounts in estimate.*—Subject to any directions which the Central Government may give in this behalf, any sum of money, or part thereof, of which the expenditure has been authorised in an estimate for the time being in force, finally approved by the Central Government and which has not been so spent, may at any time be re-appropriated by the Board to meet any excess in any other expenditure authorised in the said estimate :

Provided that no such re-appropriation shall be made from one major head of expenditure to another such head without the previous sanction of the Central Government.

86B. *Submission of accounts to the Central Government.*—(1) The Board shall annually, or oftener if directed by the Central Government so to do, submit statements of its receipts and disbursements to the Central Government in such form and at such time as that Government may direct.

(2) A copy of all such statements shall be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time be fixed by the Board.

86C. *No expenditure above five thousand rupees to be incurred unless sanctioned in estimate.*—(1) Subject to the provisions of section 86A, no sum exceeding five thousand rupees shall, save in cases of pressing emergency, be expended by, or on behalf of, the Board unless such sum is included in some estimate at the time in force which has been finally approved by the Central Government.

(2) If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Central Government together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure."

168. *Amendment of section 87, Madras Act II of 1905.*—In the proviso to section 87 of the Madras Act, for the words "fifty thousand rupees" the words "one lakh of rupees" shall be substituted.

169. *Substitution of new section for section 88, Madras Act II of 1905.*—For section 88 of the Madras Act, the following section shall be substituted, namely :—

"88. *Power of Chairman as to contracts.*—The Chairman may, on behalf of the Board, enter into any contract or agreement whereof the value or amount shall not exceed ten thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the Chairman and by two other Trustees and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board."

170. *Amendment of section 89, Madras Act II of 1905.*—To section 89 of the Madras Act, the following provisio shall be added, namely :—

"Provided that no settlement shall be made under this section without the previous sanction of the Central Government if such settlement involves the payment by the Board of a sum exceeding twenty-five thousand rupees."

171. *Amendment of section 90, Madras Act II of 1905.*—In section 90 of the Madras Act, the words "and all fees for pilotage shall be paid to the Board" shall be omitted.

172. *Repeal of sections 93 and 94, Madras Act II of 1905.*—Sections 93 and 94 of the Madras Act are hereby repealed.

173. *Substitution of new section for section 96, Madras Act II of 1905.*—For section 96 of the Madras Act, the following section shall be substituted, namely :—

"96. *Approval and publication of bye-laws.*—(1) No bye-law or alteration or revocation of a bye-law shall have effect until the same has been approved by the Central Government.

(2) No bye-law or alteration or revocation of a bye-law shall be approved by the Central Government until the same has been published once in the Official Gazette and also in three successive issues of at least two of the principal local daily newspapers."

174. *Substitution of new section for section 101, Madras Act II of 1905.*—For section 101 of the Madras Act, the following section shall be substituted, namely :—

"101. *Persons employed under this Act to be public servants for certain purposes.*—Every person employed under this Act shall, for the purposes of sections 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code (Act XLV of 1860) and for the purposes of the Prevention of Corruption Act, 1947 (II of 1947), be deemed to be a public servant within the meaning of section 21 of the said Code."

175. *Amendment of section 105, Madras Act II of 1905.*—In section 105 of the Madras Act, for the words "and the said sum shall, on the application of the Board," the following shall be substituted, namely :—

"or where any officer of the Board has, subject to such conditions as may be laid down by the Board, been generally or specially authorised by the Board in this behalf by such officer, and the said sum shall on application by or on behalf of the Board."

176. *Insertion of new section 109A in Madras Act II of 1905.*—After section 109 of the Madras Act, the following section shall be inserted, namely :—

"109A. *Application of certain provisions of the Act to aircraft.*—The provisions of sections 36, 39, 42, 43, 60, 61, 62, 95, 106, 107 and 111 shall apply in relation to all aircraft making use of the Port while on water as they apply in relation to vessels."

177. *Insertion of new sections 111A and 111B in Madras Act II of 1905.*—After section 111 of the Madras Act, the following sections shall be inserted, namely :—

"111A. *Power to evict certain persons from the premises of the Board.*—(1) Notwithstanding anything contained in any other law, if

the Board in exercise of the powers conferred on it by rules made under this Act cancels the allotment of any premises made to any officer or servant of the Board, the Board may, by notice in writing, order such allottee or any other person who may be in occupation of the whole or any part of the premises to vacate them and deliver the same to the Board or a person appointed by the Board in that behalf within such period as may be specified in the notice.

Explanation.—For the purposes of this section, "premises" means any building or part of a building and includes—

(*i*) the gardens, grounds and out-houses, if any appretaining to such building or part of a building;

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; and

(*iii*) any furniture, books or other things belonging to the Board and found in such building or part of a building.

(2) If any allottee or other person refuses or fails to comply with an order made under sub-section (1), any presidency-magistrate or magistrate of the first class may, on application made by or on behalf of the Board, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Board or a person appointed by the Board in that behalf and the police officer may, for that purpose, use such force as may be necessary.

(3) Any such notice as is referred to in sub-section (1) may be served—

(*a*) by delivering or tendering it to the allottee or any other person who may be in occupation of the whole or any part of the premises, or

(*b*) by affixing it on the outer door or some other conspicuous part of the premises, or

(*c*) by post.

111B. *Annual administration report of the Port.*—As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Central Government, the Board shall submit to the Central Government a detailed report of the administration of the Port during the preceding year ending on the thirty-first day of March in such form as the Central Government may direct."

178. *Amendment of section 112, Madras Act II of 1905.*—In section 112 of the Madras Act, for the words "as may be called for by the Central Government for the purposes of this Act" the words "relating to the work of the Board under this Act as may, from time to time, be called for by the Central Government" shall be substituted.

179. *Substitution of new section for section 113, Madras Act II of 1905.*—For section 113 of the Madras Act, the following section shall be substituted, namely :—

"113. *Power to supersede the Board.*—(1) If, at any time, it appears to the Central Government that the Board is unable to perform, or has persistently made default in the performance of, the duties imposed on

it by or under the provisions of this Act or of any other law, or has exceeded or abused its powers or that any orders or directions lawfully made or given by the Central Government have not been or are not likely to be carried out by the Board, the Central Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification :

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable time to the Board to show cause why the Board should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board the following consequences shall ensue :—

(*a*) all the Trustees shall, as from the date of supersession, vacate their offices as such Trustees ;

(*b*) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Board, shall until the Board is reconstituted under clause (*b*) or clause (*c*) of sub-section (3) be exercised and performed by such person or persons as the Central Government may direct ;

(*c*) all property vested in the Board shall, until the Board is reconstituted under clause (*b*) or clause (*c*) of sub-section (3) vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(*a*) extend the period of supersession for such further term as they may consider necessary, or

(*b*) reconstitute the Board by fresh appointment and fresh election, and in such case, any persons who vacated their office under clause (*a*) of sub-section (2) shall not be deemed disqualified for appointment or election, as the case may be, or

(*c*) by notification in the Official Gazette direct that the Board shall be reconstituted by the persons who vacated their offices under clause (*a*) of sub-section (2) and shall recommence functioning as if the Board had not been superseded :

Provided that the Central Government may at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (*b*) or clause (*c*) of this sub-section."

CHAPTER V

AMENDMENT OF ACT XV OF 1908

180. *Amendment of section 3, Act XV of 1908.*—In section 3 of the Indian Ports Act, 1908 (hereinafter in this Chapter referred to as the Ports Act),—

(*a*) in clause (2),—

(*i*) after the words "any vessel" the words "or any aircraft making use of any port" shall be inserted ;

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(*ii*) after the words "harbour master," the words "of the port" shall be inserted,

(*iii*) the words "or the aircraft, as the case may be" shall be added at the end.

(*b*) in clause (7), after the word "conveyance" the word "principally" shall be inserted.

181. *Amendment of section 6, Act XV of 1908.*—In clause (*k*) of sub-section (1) of section 6 of the Ports Act, for the words "passenger vessels" the word "vessels" shall be substituted.

182. *Amendment of section 35, Act XV of 1908.*—To section 35 of the Ports Act, the following sub-section shall be added, namely :—

"(3) The Government may, in special cases, remit the whole or any portion of the fees chargeable under sub-section (1) or sub-section (2)."

183. *Amendment of section 36, Act XV of 1908.*—In section 36 of the Ports Act,—

(1) to sub-section (2), the following proviso shall be added, namely :—

"Provided that the port fund account for any port may, if so authorised under the provisions of any Act relating to such port, be merged with the general account of that port, and in such a case, the provisions of sub-section (6) shall not apply and the provisions of sub-sections (4) and (5) shall have effect as if the words "the port fund account of the port" therein, the words "the general account of the port" had been substituted."

(2) for clause (*a*) of sub-section (4), the following clause shall be substituted, namely :—

"(*a*) fines other than those creditable to the pilotage account of the port under sub-section (*5a*);";

(3) after sub-section (5), the following sub-sections shall be inserted, namely :—

"(*5a*) All fees charged for pilotage at any port subject to this Act and all fines and penalties levied under the Act or under any other Act relating to the port from pilots or other persons employed in the pilot service other than fines and penalties imposed by a court, shall be credited to a distinct account to be called the pilotage account of the port.

(*5b*) All sums so credited to the pilotage account may be applied, in such proportions as the Government may from time to time direct, to the following purposes, namely :—

(*a*) the purchase and maintenance in repair of such vessels and the supply of such materials, stores or other things as the officer or body appointed under sub-section (1) may deem it necessary to purchase, maintain or supply for the efficiency of the pilot service ;

(*b*) the payment of the salaries, wages and allowances of pilots and other persons employed in the pilot service or in the supervision thereof ;

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(*c*) the payment of pensions, retiring gratuities, compassionate allowances or bonuses to pilots and other persons engaged in the pilot service, and of the contributions, if any, duly authorised to be made in their behalf to any provident fund or welfare fund;

(*d*) the payment of pensions, gratuities and compassionate allowances granted by the officer or body appointed under sub-section (1) to pilots and other persons engaged in the pilot service who have been injured in the execution of their duty and to the surviving relatives of pilots and other persons so engaged who have been killed in the execution of their duty or who may die while still in the service of such officer or body;

(*e*) the provision of educational, recreational and other amenities for pilots and other persons employed in the pilot service;

(*f*) the payment of contributions or appropriations to any special fund or funds established under the provisions of any other Act relating to the port to which the officer or body appointed under sub-section (1) considers contributions or appropriations should be made from the pilotage account;

(*g*) any other expenditure which may, with the previous sanction of the Government, be incurred in respect of the pilot service;

(5*c*) If the officer or body appointed under sub-section (1) at any port is also the authority responsible for maintaining the general account of the port, then notwithstanding the absence of any provision in that behalf in the Act under which such general account is maintained, such officer or body may, with the previous sanction of the Government, apply any sum out of the moneys credited to such general account towards meeting deficits, if any, in the pilotage account of the port, or transfer the whole or any part of any surplus funds, in the pilotage account to the general account of the port";

(4) in sub-section (6), after the words "port fund account" the words "or of a pilotage account" shall be inserted.

184. *Insertion of new section 68C in Act XV of 1905.*—After section 68B of the Ports Act, the following section shall be inserted, namely:—

"68C. *Application of certain provisions of the Act to aircraft.*—(1) The provisions of sections 6, 13 to 16 (both inclusive), 18, 21 and 28, sub-section (2) of section 31 and sections 33, 34, 35, 39, 42 to 48 (both inclusive) and 55 shall apply in relation to all aircraft making use of any port subject to this Act, while on water as they apply in relation to vessels.

(2) No such aircraft shall enter or leave any port subject to this Act, except with the permission granted by the Conservator of the Port or by such other officer as may be authorised in this behalf by the Conservator."

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CHAPTER VI

AMENDMENT OF ACT XXXIII OF 1948

185. *Substitution of new section 7, Act XXXIII of 1948.*—For section 7 of the Calcutta Port (Pilotage) Act, 1948 (hereinafter in this Chapter referred to as the Pilotage Act), the following section shall be substituted, namely :—

"7. *Pilotage fees and fines and penalties levied under the Act.*—All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot service, except fines and penalties imposed by a court, shall be accounted for and expended by the Commissioners in accordance with the provisions of section 36 of the Indian Ports Act, 1908 (XV of 1908)."

186. *Repeal of section 8, Act XXXIII of 1948.*—Section 8 of the Pilotage Act is hereby repealed.

187. *Amendment of section 9, Act XXXIII of 1948.*—In section 9 of the Pilotage Act,—

(*a*) after the words "to apply" the words "any sum out of" shall be inserted;

(*b*) after the words "pilotage account" the words, figures, brackets and letters "maintained under section 36 of the Indian Ports Act, 1908 (XV of 1908)" shall be inserted;

(*c*) for the words "part of the surplus funds in the pilotage account" the words "any part of any surplus funds in such pilotage account" shall be substituted.

188. *Substitution of new section for section 10, Act XXXIII of 1948.*—For section 10 of the Pilotage Act, the following section shall be substituted, namely :—

"10. *Application of certain provisions of Bengal Act III of 1890.*—Sections 18, 19, 24B, 29 to 34 (both inclusive), 47 to 54 (both inclusive), 55, 57, 58 and 69 to 80A (both inclusive) of the Calcutta Port Act, 1890 (Bengal Act III of 1890) are hereby incorporated in this Act subject to the following modifications, namely :—

(*a*) that the references in the said sections to the Calcutta Port Act, 1890 shall be taken as references to this Act;

(*b*) that the clause (*b*) of section 19, for the words "the tolls, dues, rates, rents and charges" the words "the pilotage fees" shall be substituted,

(*c*) that the proviso to sub-section (2) of section 30 shall be omitted;

(*d*) that in sub-section (1) of section 34, the words "the Deputy Chairman or to" shall be omitted;

(*e*) that sub-section (2) of section 34 shall be omitted."

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STATEMENT OF OBJECTS AND REASONS.

Prior to the 1919 Reforms, both major and minor ports were being administered by the various Local Governments concerned under Local Acts. After the 1919 Reforms, the Centre became constitutionally responsible for the major ports, but the Central Government did not actually take over the administrative control of the major ports of Bombay, Calcutta and Madras from the Provincial Governments concerned till the 1st April, 1937, when the Government of India (Adaptation of Indian Laws) Order, 1937, which made the necessary adaptations to the relevant Provincial Acts to enable the Centre to discharge its functions in relation to these major ports, came into operation.

2. The Acts applicable to the present administration of the major ports of Bombay, Calcutta and Madras are thus very old, their origin in the case of Calcutta and Bombay dating back to the last century. Because of this, and also because they were originally enacted by different local Governments who were then in the administrative control of these ports, these Acts contain many provisions which are dissimilar in nature and scope, are difficult to interpret and give rise to certain administrative anomalies Besides, a number of lacunae have been noticed in the provisions of these Acts in the light of their working during the past, and these also require rectification. The objects of the Bill are to remove these lacunae, introduce such uniformity as is possible without unnecessary disturbance of the *status quo*, effect a considerable degree of decentralisation of authority in the matter of day-to-day administration, and introduce a greater measure of Central control and supervision in matters of policy. Opportunity is also being taken to effect certain improvements in the Indian Ports Act, 1908, which applies not only to major ports but also to 'minor' ports which now fall in the concurrent field of legislation, and to effect certain consequential amendments to the Calcutta Port (Pilotage) Act, 1948.

3. The question has been examined whether instead of revising the existing Port Trust Acts relating to the ports of Madras, Bombay and Calcutta, a single Major Ports Act should not be enacted in their place. It has been decided not to adopt this course in view of th fact that conditions differ greatly at these ports.

NEW DELHI;
The 26th May, 1950.

N. GOPALASWAMI

BILL NO. 45 OF 1950

A Bill to amend the Displaced Persons (Institution of Suits) Act, 1948, and the Displaced Persons (Legal Proceedings) Act, 1949.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Displaced Persons (Institution of Suits and Legal Proceedings) Amendment Act, 1950.

2. *Amendment of section 1, Act XLVII of 1948.*—In sub-section (2) of section 1 of the Displaced Persons (Institution of Suits) Act, 1948 (hereinafter referred to as the said Act), for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted.

3. *Amendment of section 2, Act XLVII of 1948.*—In section 2 of the said Act, for the words "for a period of three years only" the words, figures and letters "only up to the 31st day of March, 1952" shall be substituted.

4. *Substitution of new section for section 8 in Act XLVII of 1948.*—For section 8 of the said Act, the following section shall be substituted, namely :—

"8. *Extension of period of limitation.*—Notwithstanding anything contained in section 3 of the Indian Limitation Act, 1908 (IX of 1908), or in any special or local law, any suit or other legal proceeding by a displaced person, whether in pursuance of section 4 or otherwise, in respect of which the period of limitation expires or has expired after the 14th day of August, 1947, may be instituted at any time before the date of expiry of this Act :

Provided that the cause of action in respect of such suit or other legal proceedings arises or has arisen in a place now situate in the territories of Pakistan."

5. *Amendment of section 1, Act XXV of 1949.*—In sub-section (2) of section 1 of the Displaced Persons (Legal Proceedings) Act, 1949, for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted.

6. *Amendment of section 8, Act XXV of 1949.*—Section 8 of the Displaced Persons (Legal Proceedings) Act, 1949, shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) In particular and without prejudice to the generality of the foregoing provision, the expiry of this Act shall not affect the power of a court to grant any relief specified in section 4 in any suit or other legal proceeding, in respect of which the period of limitation has been extended under section 8 of the Displaced Persons (Institution of Suits) Act, 1948 (XLVII of 1948), and such relief may be granted as if this Act had not expired."

7. *Repeal and savings.*—(1) If immediately before the commencement of this Act, there is in force in any of the Part B States any law corresponding to the Displaced Persons (Institution of Suits) Act, 1948 (XLVII of 1948), or the Displaced Persons (Legal Proceedings) Act, 1949 (XXV of 1949), such corresponding law is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under such corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the Displaced Persons (Institution of Suits) Act, 1948, or the Displaced Persons (Legal Proceedings) Act, 1949, as the case may be, as if those Acts were in force in the State on the day on which such thing was done or action was taken.

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STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to extend the period of limitation in respect of suits or other proceedings to be filed by displaced persons including displaced banks so that they may institute such suit or other legal proceeding at any time before the 31st March, 1952, although the period of limitation may have expired after the 14th August, 1947.

If, however, a suit or proceeding is instituted against any displaced person, such displaced debtor should have all the relief to which he would be entitled under the Displaced persons (Legal Proceedings) Act, 1949, although the decree may be passed after the expiry of that Act. To achieve these two objects the two Acts, the Displaced Persons (Institution of Suits) Act, 1948, and the Displaced Persons (Legal Proceedings) Act, 1949, are being amended.

AJIT PRASAD JAIN

NEW DELHI;
The 26th July, 1950.

BILL NO. 46 OF 1950

A Bill to amend the Administration of Evacuee Property Act, 1950.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Administration of Evacuee Property (Amendment) Act, 1950.

2. *Substitution of new section for section 58, Act XXXI of 1950.*—For section 58 of the Administration of Evacuee Property Act, 1950, the following section shall be substituted and shall be deemed always to have been substituted, namely:—

"58. *Repeals and savings.*—(1) The Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), and the Hyderabad Administration of Evacuee Property Regulation (Hyderabad No. XII of 1359F), are hereby repealed.

(2) If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law corresponding to this Act, that corresponding law shall stand repealed.

(3) The repeal by this Act of the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), or the Hyderabad Administration of Evacuee Property Regulation (Hyderabad No. XII of 1359F) or of any corresponding law shall not affect the previous operation of that Ordinance, Regulation or corresponding law, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under that Ordinance, Regulation or corresponding law, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken."

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STATEMENT OF OBJECTS AND REASONS.

Prior to the 26th January, 1950—the date of coming into force of the new Constitution—Parliament had no powers to legislate for Hyderabad State and, consequently, the Administration of Evacuee Property Ordinance No. XXVII of 1949 was not made applicable to that State. The State Government promulgated in December, 1949 a Regulation for the administration of evacuee property on, practically, the same lines as the Central Ordinance. After the coming into force of the new Constitution, Parliament passed in April, 1950 the Administration of Evacuee Property Act No. XXXI of 1950. This Act extends to the whole of India (including Hyderabad State), except the States of Assam, West Bengal, Tripura, Manipur, and Jammu and Kashmir. Unfortunately, due to an inadvertent omission, no provision was made in the Act of Parliament repealing the pervious Hyderabad Regulation relating to the administration of evacuee property, or saving the actions taken thereunder. The Administration of Evacuee Property (Amendment) Bill, 1950, seeks to rectify the anomaly so as to extend the scope of section 58 of the Administration of Evacuee Property Act No. XXXI of 1950 to include the Hyderabad Regulation with retrospective effect from the date of the commencement of the Act. The effect of the amendment would be formally to repeal the Hyderabad Regulation and save all actions taken thereunder.

AJIT PRASAD JAIN

NEW DELHI;
The *July*, 1950.

M. N. KAUL,
Secretary.

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PART IV

Section—1-B.

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1869—Legis. 2-50-40, dated Bangalore, 13th September 1950.

Ordered that the following Sugar Crisis Enquiring Authority Ordinance, 1950 (XXV of 1950), published in the *Gazette of India*, Part II, Section 1, dated the 1st September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA

MINISTRY OF LAW

THE SUGAR CRISIS ENQUIRING AUTHORITY ORDINANCE, 1950.

No. XXV OF 1950.

An Ordinance to vest an Enquiring Authority with certain powers.

WHEREAS a Bill containing provisions to vest an Enquiring Authority with certain powers has been introduced in Parliament but has not yet been passed,

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(*1*) This Ordinance may be called the Sugar Crisis Enquiring Authority Ordinance, 1950.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force at once.

2. *Definition.*—In this Ordinance, "Enquiring Authority" means the person appointed under the Resolution of the Government of India in the Ministry of Agriculture, No. SV-101 (4-15)/50, dated the 12th June, 1950, to make an enquiry into some aspects of the sugar crisis.

3. *Powers of Enquiring Authority.*—(1) The Enquiring Authority shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requirng the discovery and production of any document;

(*c*) reception of evidence on affidavits;

(*d*) requisitioning any public record from any court or office;

(*e*) issuing commissions for the examination of witnesses.

(2) The Enquiring Authority shall have power to require any person to furnish information on such points or matters as, in the opinion of the Enquiring Authority, may be useful for, or relevant to, the subject-matter of enquiry.

(3) The Enquiring Authority, or any officer specially authorised by the Enquiring Authority, may enter any building or place where he has reason to believe that any books of account or other documents relevant to the subject-matter of the enquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom.

(4) The Enquiring Authority shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898), and any proceeding before the Enquiring Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

4. *Statements made by persons to the Enquiring Authority.*—No statement made by a person in the course of giving evidence before the Enquiring Authority shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement :

Provided that the statement—

(*a*) is made in reply to a question which he is required by the Enquiring Authority to answer, and

(*b*) is relevant to the subject-matter of the enquiry.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

NOTIFICATION.

No. L.D. 1871—Legis. 2-30-39, dated Bangalore, 13th September 1950.

Ordered that the following Allianz und Stuttgarter Life Insurance Bank (Transfer) Ordinance, 1950, (XXIV of 1950), published in the *Gazette of India*, Part II, Section 1, dated the 1st September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA

MINISTRY OF LAW

THE ALLIANZ UND STUTTGARTER LIFE INSURANCE BANK (TRANSFER) ORDINANCE, 1950

No. XXIV OF 1950

An Ordinance to provide for the transfer of the business of the Allianz Und Stuttgarter Life Insurance Bank, Limited, to the United India Life Assurance Company, Limited, and for matters connected therewith.

WHEREAS a Bill to provide for the transfer of the business of the Allianz Und Stuttgarter Life Insurance Bank, Limited, to the United India Life Assurance Company, Limited, and for matters connected therewith has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(*1*) This Ordinance may be called the Allianz Und Stuttgarter Life Insurance Bank (Transfer) Ordinance, 1950.

(*2*) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(*a*) "the Act" means the Insurance Act, 1938 (IV of 1938);

(*b*) "transferee company" means the United India Life Assurance Company, Limited, having its registered office in Madras;

(*c*) "transferor company" means the Allianz Und Stuttgarter Life Insurance Bank, Limited.

5. *Transfer of assets and liabilities of the transferor company to the transferee company.*—All the assets and liabilities of the transferor company which relate to or arise out of the life insurance business of the transferor company carried on immediately before the commencement of this Ordinance by Messrs. A. F. Ferguson and Company, Chartered Accountants of Bombay, under the Defence of India Rules shall, by virtue of this Ordinance, stand transferred to and vest in the transferee company, subject to the provisions of this Ordinance and to the terms and conditions specified in the First Schedule.

4. *Effect of transfer of assets and liabilities to transferee company.*—(*1*) Every contract of life insurance, entered into between the transferor company and the holder of any life policy before the commencement of this Ordinance, shall have effect as from such commencement as if the transferee company had been a party to the contract instead of the transferor company, and for any reference (however worded and whether express or implied) to the transferor company there were substituted as respects anything falling to be done on or after such commencement, a reference to the transferee company, and with such other modifications as may be necessary to transfer rights, liabilities and obligations under the contract so far as unperformed, from the transferor company to the transferee company:

Provided that no provision in any such contract for the payment of any bonus, profit, interest or dividend on any life policy shall have effect against the transferee company except on the basis of an actuarial valuation of the business of the transferor company made after the commencement of this Ordinance and to the extent, if any, that may be recommended by the actuary.

(*2*) For the removal of doubts it is hereby declared that notwithstanding any decision or rule of law to the contrary, no contract of life insurance as is referred to in sub-section (*1*) shall be deemed to have been dissolved merely by reason of the declaration that war had broken out between the Government of the United Kingdom and Germany.

5. *Cessation of payment of commission to past insurance agents.*—(*1*) Notwithstanding anything to the contrary contained in the Act or in any other law for the time being in force or in any contract, all contracts of agency entered into before the 31st day of July, 1942, between an insurance agent, a special agent or a chief agent (by whatever name called) and the transferor company, and any appointment made before the said date whereby remuneration is payable to any person in the form of commission or bonus, shall be deemed to have been terminated with effect from the said date and no commission or bonus due to such agent or person, whether on renewal premiums or otherwise, shall be payable to him in respect of any life policies procured by or through him before the said date.

(*2*) Notwithstanding anything to the contrary contained in any law for the time being in force, no compensation shall be payable to any person for the termination, in pursuance of this section, of any contract of agency or other appointment.

6. *Provision for facilitating transfer.*—The Central Government may, by order notified in the Official Gazette, make such incidental, supplementary or consequential provisions as, in its opinion, are necessary to secure that the transfer of the assets and liabilities of the transferor company to the

transferee company are fully and effectively carried out, and in particular and, without prejudice to the generality of such power, provision may be made by order—

(*a*) for adapting the terms of contracts entered into between the transferor company and any other person before commencement of this Ordinance, so as to conform to the changes consequent on the passing of this Ordinance in the circumstances in which the contracts will fall to be performed after such commencement;

(*b*) for requiring any person concerned with the keeping of the register of the holders of any securities or investments now transferred to the transferee company to forthwith register the transferee company therein and to issue to the transferee company the appropriate documents of title relating to the securities or investments transferred to it;

(*c*) for the continuation by or against the transferee company of any legal proceedings pending by or against the transferor company.

7. *Power to give directions.*—(*1*) If any difficulty arises in giving effect to the provisions of this Ordinance, the Controller of Insurance may, with the approval of the Central Government, give such directions to the transferee company as he may consider necessary and the transferee company shall be bound to comply with such directions.

(*2*) If the transferee company fails to comply with any direction given to it under sub-section (*1*) it shall be deemed to have committed an offence punishable under section 102 of the Act.

8. *Repeal of certain notifications.*—The notifications specified in the Second Schedule shall cease to have effect on the commencement of this Ordinance, except as respects things done or omitted to be done before such commencement.

THE FIRST SCHEDULE

(*See* section 3)

Terms and conditions relating to the transfer of the business of the transferee company

1. The transferee company shall maintain a separate account in which shall be shown the business of the transferor company which has been transferred to it and a separate valuation thereof shall be made from time to time with a view to ascertaining whether profits appertaining to such business and divisible among holders of life policies exist.

2. The transferee company shall be bound to pay in full all claims arising out of any life policy issued by the transferor company and remaining to be paid at the commencement of this Act or falling to be paid at any time after such commencement.

3. Notwithstanding anything contained in Notification No. 168-I(23)-W/41 of the Government of India in the Commerce Department, dated the 27th day of June, 1942, the transferee company shall be liable to make good in respect of every policy of life insurance which had fallen due for payment before the commencement of this Act the difference between the amounts actually paid to the holder thereof by or on behalf of the transferor company in pursuance of the said notification and the full amount which would have been payable if that notification had not been issued.

4. If the transferee company recovers or receives any money from outside India which relate to the assets now transferred to the transferee company the same shall be applied by the transferee company for the benefit of the life policies of the transferor company issued in India.

THE SECOND SCHEDULE

(*See* section 8)

Repeals

Notification No. and date	*Contents of Notification*
1. No. 288-OR/39, dated the 14th December, 1939, of the Government of India, Defence Co-ordination Department.	Authorising Messrs. A. F. Ferguson and Company, Chartered Accountants of Bombay, to carry on the business of the transferor company under rule 113A of the Defence of India Rules, since continued in force by the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947 (XVI of 1947).
2. No. 168-1(2)-W/39, dated the 22nd February 1941, of the Government of India, Department of Commerce.	Granting exemptions to Messrs. A. F. Ferguson and Company from the operation of certain provisions of the Act
3. No. 168-1(23)-W/41, dated the 27th June, 1942, of the Government of India, Department of Commerce.	Exempting Messrs. A. F. Ferguson and Company from the obligation imposed by any contract of insurance in respect of so much thereof as is in excess of 20 per cent of the liability arising therefrom.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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PART IV

Section 1-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1870—Legis. 2-50-41, dated Bangalore, 13th September 1950.

Ordered that the following Administration of Evacuee Property (Amendment) Ordinance, 1950, (XXVII of 1950), published in the *Gazette of India*, Part II, Section 1, dated the 6th September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA

MINISTRY OF LAW

THE ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) ORDINANCE, 1950.

No. XXVII OF 1950.

An Ordinance to amend the Administration of Evacuee Property Act, 1950.

WHEREAS a Bill to amend the Administration of Evacuee Property Act, 1950, has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(*1*) This Ordinance may be called the Administration of Evacuee Property (Amendment) Ordinance, 1950.

(*2*) It shall come into force at once.

2. *Substitution of new section for section 58, Act XXXI of 1950.*—During the period of operation of this Ordinance, the Administration of Evacuee Property Act, 1950, shall have effect as if for section 58 there had always been substituted the following section, namely :—

"58. *Repeals and savings.*—(*1*) The Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), and the Hyderabad Administration of Evacuee Property Regulation (Hyderabad No. XII of 1359F), are hereby repealed.

(*2*) If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law which corresponds to this Act and which is not repealed by sub-section (*1*), that corresponding law also shall stand repealed.

(*3*) The repeal by this Act of the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949), or the Hyderabad Administration of Evacuee Property Regulation (Hyderabad No. XII of 1359F) or of any corresponding law shall not affect the previous operation of that Ordinance, Regulation or corresponding law, and subject thereto, anythnig done or any action taken in the exercise of any power conferred by or under that Ordinance, Regulation or corresponding law, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken."

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

NOTIFICATION.

No. L.D. 1872—Legis. 5-50-14, dated Bangalore, 13th September 1950.

Ordered that the following Constitution (Removal of Difficulties) Order No. II, (Second Amendment) Order (C. O. 20), published in the *Gazette of India*, Part II, Section 3, dated the 11th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

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MINISTRY OF LAW

To

NOTIFICATION

New Delhi, the 11th August, 1950.

S.R.O. 384.—The following Order made by the President is published for general information :—

C. O. 20

THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER, No. II (SECOND AMENDMENT) ORDER

In exercise of the powers conferred by clause (1) of article 392 of the Constitution of India, the President is pleased to make the following Order, namely :—

1. This Order may be called the Constitution (Removal of Difficulties) Order, No. II (Second Amendment) Order.

2. In Part I of the Schedule to the Constitution (Removal of Difficulties) Order, No. II,—

(a) for the entry relating to article 249, the following entry shall be substituted, namely :—

"249 In clause (1), for "the Council of States" substitute "Parliament";" and

(b) the entries relating to articles 251 and 252 shall be omitted.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secretary.

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NOTIFICATION.

No. L.D. 1873—Legis. 5.50-15, dated Bangalore 13th September 1950.

Ordered that the following Constitution (Removal of Difficulties) Order No. VI (C. O. 21), published in the *Gazette of India*, Part II, Section 3, dated the 2nd September 1950, be re-published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF LAW.

NOTIFICATION.

New Delhi, the 2nd September, 1950.

S.R.O. 507.—The following Order made by the President is published for general information :—

THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER No. VI.

C.O. 21.—In exercise of the powers conferred by clause (1) of article 392 of the Constitution of India the President is pleased to make the following Order, namely :—

1. (1) This Order may be called the Constitution (Removal of Difficulties) Order No. VI.

(2) It shall come into force at once.

2. So long as any of the persons who, not being citizens of India at the commencement of the Constitution, became Judges of High Courts by virtue of clause (1) of article 376, holds office as a

Judge of any High Court or of the Supreme Court, the Constitution of India shall have effect subject to the following adaptation :—

To clause (1) of article 376, the following shall be added, namely :—

"Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court or of the Supreme Court."

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secretary.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

NOTIFICATION.

No. C. 831—Co. 27-50-2, Bangalore, dated the 18th September 1950.

In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneuos Provisions (Temporary Powers) Act 1947, (Act XX of 1947) His Highness the Maharaja is pleased to publish the following notification issued by the Textile Commissioner under the Mysore Cotton Control Order 1949.

By Order of His Highness the Maharaja,

A. S. KHALEEL,

Secretary to Government,

Food and Agriculture Departments.

MINISTRY OF INDUSTRY AND SUPPLY

NOTIFICATION

Bombay, the 21st August 1950

In exercise of the powers conferred on me by Clause 3(1) of the Mysore Cotton Control Order, 1949, I hereby fix the maximum and the minimum prices at which Indian cotton of the 1950-51 season may be sold or purchased as under :—

1. These prices shall take effect as soon as contracts relating to Indian cotton of the 1950-51 season are permitted by me under Clause 6 of the said Order.

2. The minimum and maximum prices of cotton of the descriptions specified in columns 1 and 2 of the Schedule annexed to this Notification shall be as specified in columns 3 and 4 respectively of the Schedule; provided that where the cotton, the subject-matter of the contract, is of quality either inferior or superior to the basic quality referred to in columns 1 and 2 of the Schedule, the minimum or the maximum prices shall be decreased or increased as the case may be by an amount specified in columns 5 to 7 of the Schedule.

3. (1) The prices specified in the Schedule are in Rupees per candy of 784 lbs. nett for delivery in full-pressed bales *ex* seller's godown Bombay and include 1/4 per cent brokerage payable by the seller to the buyer and the usual sample and stone allowances.

(2) The minimum and maximum prices for delivery at any place other than Bombay shall be the prices specified in the Schedule less the sum equivalent to the railway freight from the place of origin to Bombay and Rs. 10 per candy, *plus* the sum, if any, equivalent to the railway freight from the place of origin to the place of delivery to the buyer and Rs. 10 per candy.

Explanation :—The place of origin means the railway station nearest the Press Factory where the cotton was pressed.

4. In the Schedule,

(a) "Jarilla" means cotton recognised as such and grown in the Nasik, East and West Khandesh (excluding Nawapur Taluka), Sholapur and Ahmednagar Districts of the Bombay State; States of Madhya Pradesh, Madhya Bharat, Hyderabad and Rajasthan; and includes "Verum", "C. P. Cambodia", "Central India Americans", "Rajputana Americans", "Upland", "Gaorani (Umri)", "Malvi" and "H. 420". It also includes "Buri American", "Parbhani American" and Gaorani 6 and 12" which are excluded from the definitions of those cottons in items (q), (r) and (s) of this paragraph on account of the several provisos in those items. "H. 420" grown in the Nimar, Amraoti, Akola and Yeotmal Districts of the Madhya Pradesh State will, however, be excluded provided it complies with the proviso given at the end of this paragraph.

(b) "Vijay" means cotton recognised as such and grown in the Kaira, Baroda, Broach excluding Ankleshwar Taluka, Sabar Kantha, Ahmedabad (Daskroi, Dehgam and city talukas) and Panch Mahal Districts of the Bombay State; and includes "B.D. 8" and "B. 9".

(c) "Surat" means cotton recognised as such and grown in the Surat District, Ankleshwar Taluka of Broach District and Nawapur Taluka of the West Khandesh District of the Bombay State; and includes "Rajpipla".

(d) "Punjab American" means cotton recognised as such and grown in the States of the Punjab, Patiala and East Punjab States Union, and Bikaner Division of Rajasthan. "Punjab American 216F" grown in the Karnal and Hissar Districts of the Punjab State will be included in "Punjab American 289F" but will be excluded provided it has a minimum staple length of 7/8 inch and complies with the proviso given at the end of this paragraph.

(e) "Coompta" means cottons recognised as such and grown in the Dharwar, Belgaum, Bijapur, North Satara, South Satara, Sholapur and Kolhapur Districts of the Bombay State, State of Mysore, and Raichur Protected Area in the Raichur District of the Hyderabad State; and includes "Jaywant", "Mysore American M.A. 5", "R.K. 19 (Coompta)", and "Jayadhar".

"Mysore American M.A. 5" grown in the Mysore State; "R.K. 19 (Coompta)" grown in the Raichur District of the Hyderabad State; and "Jayadhar" grown in the Dharwar District of the Bombay State will, however, be excluded provided they have a minimum staple length of 1 inch, 7/8 inch and 20/32 inch respectively and comply with the proviso given at the end of this paragraph:

(f) "Western" means cotton recognised as such and grown in the Bijapur District of the Bombay State; Bellary, Kurnool (Pathikonda Taluk), Anantapur and Cuddapah Districts of the Madras State; and Gulbarga and Raichur Districts (excluding Raichur Protected Area) of the Hyderabad State; and includes "Bagalkot", "White

Northerns", "Red Northerns", "Hagari 1 (Western Form)", and "Nandyal 14".

"Nandyal 14" grown in the Kurnool District, will, however, be excluded provided it has a minimum staple length of 7/8 inch and complies with the proviso given at the end of this paragraph.

(*g*) "Upland" means cotton recognised as such and grown in the places given for "Coompta", and includes "Dharwar-American Gadag I" and "Laxmi". "Laxmi" grown mainly in the Dharwar district will be excluded provided it has a minimum staple length of 29/32 inch and complies with the proviso at the end of this paragraph.

(*h*) "Cambodia" means cotton recognised as such and grown in the North Arcot, South Arcot, Coimbatore, Salem, Tiruchirapalli, Mathurai, Ramanathapuram, Tirunelveli, Chittoor and Chingleput Districts of the Madras State; and includes "Avanashi", "Cambodia C.O. 4" (including "C.O. 4/B. 40" or "Cambodia Uganda 1"), "Cambodia C.O. 3" and "Cambodia 4463".

"Cambodia C.O. 4" (including "C.O. 4/13.40" or Cambodia Uganda 1") (otherwise known as "Rajapalayam") grown as an irrigated summer crop in the Ramnathapuram, Mathurai, South Arcot and Tirunelveli Districts; as a rain-fed crop in the Coimbatore, Salem, Tiruchirapalli, South Arcot, Mathurai and Ramanathapuram Districts; as an irrigated winter crop in the Mathurai, Tiruchirapalli, Salem and Coimbatore Districts; "Cambodia C.O. 3" grown in the Salem, Tiruchirapalli and South Arcot Districts; and "Cambodia 4463" grown in the Coimbatore District will, however, be excluded provided such cottons have a minimum staple length of 15/16 inch, 15/16 inch and 1 inch respectively and comply with the proviso given at the end of this paragraph.

(*i*) "Karunganni" means cotton recognised as such and grown in the Coimbatore, Mathurai, Ramnathapuram, Tirunelveli, South Arcot, Salem, Tiruchirapalli, Tanjore, Malabar and South Kanara Districts of the Madras State; and Mysore District of the Mysore State; and includes "Timnevelly", "Salems (Nadam; Bourbon and Uppam)", "Karunganni K. 2" and "Karunganni K. 5".

(*j*) "Dhollera" means cotton recognised as such and grown in the Saurashtra and Kutch States and Kaira, Mehsana, Amreli, Sabar Kantha Banaskantha and Ahmedabad (excluding Daskroi, Dehgam and city talukas) Districts of the Bombay State; and includes "Cutch", "1027", "Kadi/Viramgaon", "Kadva", "Wagotar", "Vagad", "Pratap", "Kalyan" and "Lalio".

"1027" grown in the Saurashtra State and Kaira, Mehsana, Amreli and Ahmedabad (excluding Daskroi, Dehgam and city talukas) Districts of the Bombay State; and "Kalyan" grown in the Ahmedabad and Mehsana Districts of the Bombay State will, however, be excluded from "Dholleras" and included in "Vijay" provided such cottons have a minimum staple length of 25/32 inch and 13/16 inch respectively and comply with the proviso given at the end of this paragraph.

(*k*) "Kalagin" means cotton recognised as such and grown in the Saurashtra State.

(*l*) "Bengal Deshi" means cotton recognised as such and grown in the Patiala and East Punjab States Union, Punjab, Uttar Pradesh, Bihar, Rajasthan and Ajmer States.

(*m*) "Oomra Deshi" means cotton recognised as such and grown in the Madhya Pradesh and Hyderabad States and Nasik and East and West Khandesh Districts of the Bombay State.

(*n*) "Mathia" means cotton recognised as such and grown in the Saurashtra State and Amreli District of Bombay State, and "Mungari" means cotton recognised as such and grown in the Bellary, Anantapur and Cuddapah Districts and Pattikonda Taluka of the Kurnool Districts of the Madras State and Kharif Cotton grown in Raichur (excluding the Raichur protected area) and Gulbarga Districts of the Hyderabad State.

(*o*) "C.P. I and C.P. II" means cotton recognised as such and grown in the State of Madhya Pradesh (excluding Nimar and Hoshangabad Districts) and Adilabad District of the Hyderabad State.

(*p*) "Central India" means cotton recognised as such and grown in the Madhya Bharat, Bhopal and Rajasthan States; and includes "Malvi".

(*q*) "Buri American" means cotton recognised as such and grown in the Nimar, Akola, Amraoti and Wardha Districts of the Madhya Pradesh State, Madhya Bharat State, and Kotah and Udaipur Divisions of Rajasthan State, provided such places are situated in areas protected under the Cotton Transport Act 1923 or the corresponding Acts; or the Cotton complies with the proviso appended to this paragraph and includes "Buri 107" and "Indore 1".

(*r*) "Parbhani American" means cotton recognised as such and grown in the Northern Talukas of the Aurangabad District and Western Highland Talukas of the Adilabad District of the Hyderabad State, provided such places are situated in areas protected under the Hyderabad Cotton Cultivation and Transport Act or the cotton complies with the proviso appended to this paragraph.

(*s*) "Gaorani 6 and 12" means cotton recognised as such and grown in the Nanded, Bidar and Parbhani Districts. Latur Taluka of the Oosmanabad District, and Nirmal Taluka of the Adilabad District of the Hyderabad State provided such places are situated in areas protected under the Hyderabad Cotton Cultivation and Transport Act, or the cottons comply with the proviso appended to this paragraph.

Proviso.—The cottons to which this Proviso applies as referred to in the aforesaid definitions should be certified either by the Department of Agriculture of the State concerned or by a Committee to be appointed by the Textile Commissioner in this behalf that they conform to the definition and quality specified for them.

SCHEDULE.

Description of Cotton Season 1950–51.	Basic staple length inches	Basic minimum price Rs. per candy	Basic Maximum price Rs. per candy	'Off' and 'On' allowance for class other than basic class — Good	F. Good	Fine	S. Fine	Extra S. Fine	Choice	'Off' allowances for staple below basic staple 2/32"	1/32"	'On' Allowances for staple above the basic staple 1/32"	2/32"	3/32"	4/32"	5/32"
		Rs.	Rs.				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Jarilla	25/32"	495	770	..	5	Basis	5	15	25	40	20	20	45	70	..	..
Vijay	25/32"	565	840	..	5	Basis	5	10	15	45	20	20	45	70	100	..
Surat	7/8"	655	930	..	5	Basis	5	10	15	50	25	20	45	70	100	..
P/Am 4F R.G.	3/4"	525	800	..	5	Basis	5	10	15	40	20	20	45	70	..	..
P/Am 4F S.G.	3/4"	545	820	..	5	Basis	5	10	15	40	20	20	45	70	..	..
P/Am L.S.S. R.G.	13/16"	585	860	..	5	Basis	5	10	15	45	20	20	45	70	..	..
P/Am L.S.S. S.G.	13/16"	605	880	..	5	Basis	5	10	15	45	20	20	45	70	..	..
P/Am 289 F.R.G.	7/8"	675	950	..	5	Basis	5	10	15	50	25	20	45	70	100	..
P/Am 289 F.S.G.	7/8"	705	980	..	5	Basis	5	10	15	50	25	20	45	70	100	..
Compta	7/8"	645	920	..	5	Basis	5	10	15	50	25	20	45	70	100	..
Western	13/16"	555	830	..	5	Basis	5	10	15	45	20	20	45	70	100	..
Upland	13/16"	575	850	..	5	Basis	5	10	15	45	20	20	45	70	..	..
Cambodia	7/8"	675	950	..	5	Basis	5	15	25	60	30	40	65	90	120	..
Karunganni	13/16"	575	850	..	5	Basis	5	10	15	50	25	20	45	70	100	120
Dhollera	3/4"	..	720	..	5	Basis	5	10	15	40	20	20	45	70	..	..
Kalagin	3/4"	..	720	..	5	Basis	5	10	15	40	20	20	45	70	..	..
Bengal Deshi	..	..	595	40	Basis	20	40	60	80	..	..	..	..	..	..	..
Oomra Deshi	..	..	645	..	5	Basis	20	40	60	..	..	..	..	..	..	..
Mathia & Mungari	..	..	645	..	5	Basis	20	40	60	..	..	..	..	..	..	..
C.P.I. and C.P. II	5/8"	..	670	..	5	Basis	5	15	25	40	20	20	45	70	..	..
Central India	5/8"	..	645	..	5	Basis	5	15	25	40	20	20	45	70	..	..
Buri American	7/8"	625	900	..	5	Basis	5	10	15	50	25	20	45	70	100	..
Parbhani American	7/8"	625	900	..	5	Basis	5	10	15	50	25	20	45	70	100	..
Gaorani 6 and 12	7/8"	625	900	..	5	Basis	5	10	15	50	25	20	45	70	100	..

T. P. BARAT, *Textile Commissioner.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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NOTIFICATION.

No. L. D. 1757—Legis. 4-50-48, Bangalore, dated 30th August 1950.

Ordered that the following Industrial Disputes (Appellate Tribunal) Rules, 1950 published in the *Gazette of India*, Part I, Section 1, dated the 8th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF LABOUR

NOTIFICATION.

New Delhi, the 8th August 1950.

No. LR. 91(3).—In exercise of the powers conferred by section 35 of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), the Central Government is pleased to make the following rules :—

1. *Short title.*—These rules may be called the Industrial Disputes (Appellate Tribunal) Rules, 1950 :—

2. *Definitions.*—In these rules,—

(a) " Act " means the Industrial Disputes (Appellate Tribunal) Act, 1950 ;

(b) " form " means a form appended to these rules ;

(c) " Registrar " means the person who is for the time being discharging the functions of the Registrar of the Tribunal ;

(d) " Tribunal " means the Labour Appellate Tribunal constituted by the Central Government under section 4 of the Act.

(e) all other words and expressions not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. *Form of appeal.*—Every appeal shall be preferred to the Tribunal in Form A and shall be signed by the appellant.

4. *Presentation.*—(1) A memorandum of appeal to the Tribunal shall be presented by the appellant in person or by an agent, to the Registrar at the principal seat of the Tribunal or to an officer authorised in this behalf by the Registrar, with the approval of the Chairman of the Tribunal, or sent by registered post addressed to the Registrar or such officer.

(2) Every memorandum of appeal shall be presented in triplicate and shall be accompanied by—

(*a*) two copies (one at least of which shall be certified copy) of the award or decision appealed from, and

(*b*) a fee of Rs. 25 :

Provided that the Tribunal may, at its discretion, accept a memorandum of appeal which is not accompanied by the documents referred to in clause (a).

5. *Date of presentation.*—Where a memorandum of appeal is presented, the Registrar or other authorised officer shall endorse thereon the date of presentation :

Provided that where a memorandum of appeal is sent by registered post, it shall be deemed to have been presented on the day on which it is received in the office of the Registrar or, as the case may be in the office of the authorised officer.

6. *Signature on memorandum of appeal where an appeal is by corporation or firm.*—In the case of an appeal by a corporation, the memorandum of appeal may be signed by the secretary or by any director or other principal officer of the corporation, and in the case of an appeal by a firm, such memorandum of appeal may be signed by any partner of the firm.

7. *Rejection or amendment of memorandum of appeal.*—(1) Where a memorandum of appeal is not drawn up in the manner hereinbefore prescribed, the Tribunal may reject it or return it to the appellant for the purpose of being amended within a time to be fixed by the Tribunal or be amended then and there.

(2) Where the Tribunal rejects any memorandum of appeal, it shall record the reasons for such rejection.

(3) Where a memorandum of appeal is amended, the Tribunal or such officer as it may appoint in this behalf shall sign or initial the amendment.

8. *Date for hearing appeal.*—(1) Where a memorandum of appeal is presented in the proper form, the Tribunal shall fix a date for hearing the appeal.

(2) Notice of the date fixed under sub-rule (1) shall be affixed in the premises where the Tribunal sits and shall be served on the respondent in the manner provided for the service on a defendant of a summons under the Code of Civil Procedure, 1908; and all the provisions applicable to such summonses and to proceedings with reference to the service thereof shall apply to the service of such notice.

9. *Procedure on hearing.*—(1) On the date fixed or any other date to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.

(2) The Tribunal shall then if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such a case the appellant shall be entitled to reply.

10. *Dismissal of appeal for appellant's default.*—(1) Where on the date fixed or any other date to which the hearing may be adjourned the appellant does not appear when the appeal is called on for hearing, the Tribunal may make an order that the appeal be dismissed.

(2) Where the appellant appears and the respondent does not appear, the appeal shall be heard *ex parte*.

11. *Power to adjourn hearing and direct persons appearing interested to be made respondents.*—(1) Where it appears to the Tribunal at the hearing that any person who was a party to the proceedings relating to the award or decision appealed from but who has not been made a party to the appeal is interested in the result of the appeal, the Tribunal may adjourn the hearing to a future date to be fixed by the Tribunal and direct that such person be made a respondent.

12. *Order in appeal.*—The Tribunal, after hearing the parties and referring to any part of the proceedings, shall pronounce judgment either at once or on some future date of which notice shall be given to the parties.

13. *Language.*—The language of the Tribunal shall be English.

Form 'A'

Before the Honourable Labour Appellate Tribunal [Constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950].

Memorandum of Appeal to the Tribunal

Appeal No.....of 19.....

A..... Appellant/s

Address:—

Versus:—

B..... Respondent/s

Address.—

In the matter of.....

The appellant/s have named beg/s :—to appeal against the award or decision of.....

made on.....in the above matter on the following amongst other grounds:—

1. That.....
2. *That*.....etc.

Certified copy of the award or decision appealed against (together with a spare copy) is enclosed herewith.

(1) *Signature or thumb impression of applicant/s*

Date.....

The appellant/s does/do solemnly declare that what is stated in paragraph..... above is true to my knowledge, in paragraph.....to my belief and in paragraph..... .....to my information. This verification is signed at.....on.....day of.....19 .

(2) *Signature or thumb impression of appellant/s.*

Drafted by

Place

Signature, etc.

K. N. SUBRAMANIAN, *Joint Secretary.*

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NOTIFICATION.

No. L. D. 1758—Legis. 6-50-36, Bangalore, dated 30th August 1950.

Ordered that the following Notification No. LR. 91(2)/I dated 8th August 1950 of the Ministry of Labour under the Industrial Disputes (Appellate Tribunal) Act 1950 published in the *Gazette of India*, Part I, Section 1, dated the 8th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF LABOUR

NOTIFICATION.

New Delhi, the 8th August 1950.

No. LR. 91(2)/I.—In exercise of the powers conferred by sections 4 and 6 of the Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950), the Central Government is pleased to constitute, with effect from the 8th August 1950, a Labour Appellate Tribunal having its principal seat at Bombay, consisting of the following Members :—

Shri J. N. Majumdar, Retired Judge of the High Court of Judicature, Calcutta.—*Chairman.*

Shri F. Jeejeebhoy, Chairman, Central Government Industrial Tribunal, Calcutta.—*Member.*

K. N. SUBRAMANIAN,
Joint Secretary.

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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. T. 4964—R.T. 65-50-4, dated Bangalore, the 13th September 1950.

In exercise of the powers conferred by Section 83 of the Mysore Motor Vehicles and Road Traffic Act, 1944, His Highness the Maharaja of Mysore is pleased to direct that the following motor vehicles owned and operated by the Central Food Technological Research Institute, Mysore, be exempted from payment of taxes leviable under the said Act:—

1. Austin A. 40 Station Wagon Car—MY 6770 Z,
2. Ford Open Truck—MY 2264 X.

By Order of His Highness the Maharaja,

No. T. 4996—R.T. 66-50-4, dated Bangalore, the 16th September 1950.

The draft of the following amendment to the Mysore Motor Vehicles and Road Traffic Rules, 1945, which it is proposed to make in exercise of the powers conferred by Section 53 of the Mysore Motor Vehicles and Road Traffic Act, 1944 (Mysore Act No. XXVII of 1944), is hereby published for the information of all persons likely to be affected thereby as required by Section 125 of the said Act.

The draft will be taken into consideration after the 10th October 1950.

Objections or suggestions, if any, to the proposed draft may be forwarded to the Secretary to Government, Local Self-Government Department, Public Offices, Bangalore, for consideration so as to reach him within the aforesaid date.

Draft.

In Rule 380 of the Mysore Motor Vehicles and Road Traffic Rules, 1945, for the words "ROYAL MAIL", the word "MAIL" shall be substituted.

By Order of His Highness the Maharaja,

L. MUNISWAMY,
Secretary to Government,
Local Self-Government Department.

No. Fl. 5339—S.T. 25-50-2, dated Bangalore, the 16th September 1950.

In exercise of the powers conferred by section 8 of the Mysore Sales Tax Act, 1948 (Mysore Act No. XLVI of 1948), His Highness the Maharaja of Mysore is pleased to notify the following further list of finished articles of industrial manufacture as those in respect of which a rebate shall be allowed under the said section.

Further List.

Spare parts and other similar articles of Aircraft sold by the Hindustan Aircraft, Limited, Bangalore.

By Order of His Highness the Maharaja,

M. SHAMANNA,
Secretary to Government,
Finance Department.

No. S.R. 3331—Ex. 86-50-2, dated Bangalore, the 18—19th September 1950.

In exercise of the powers conferred by section 29 of the Mysore Excise Act, 1901, (Mysore Act No. V of 1901), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the "Foreign Liquor Rules" issued in Notification No. 11469—Ex. F. 3-1901, dated 10th January 1902, namely :—

1. In rule I (*a*), *for* the words "British Indian Government at the port of importation in India" the

words, "the Government of India at the port, airfield or other customs post of importation in India, and include beer brewed in India," *shall be substituted.*

2. After sub-rule 2 of Rule VI, the following sub-rule shall be inserted :—

"2. A. In the case of Breweries manufacturing beer in the State and selling it wholesale, the license fees shall be as follows :—

	Rs.
(i) Those manufacturing more than 50,000 gallons per annum.	500
(ii) Those manufacturing more than 25,000 gallons per annum.	200
(iii) Those manufacturing more than 10,000 gallons per annum.	100
(iv) Those manufacturing 1,000 gallons and under per annum.	50

By Order of His Highness the Maharaja,

T. RANGAMALLIAH,
Secretary to Government,
Revenue Department.

No. A. F. 5145—Mart. 9-50-4, dated Bangalore, 12th September 1950.

In exercise of the powers conferred by Section 4 of the Mysore Agricultural Produce Markets Act, (Mysore Act No. XVI of 1939), and in modification of the Notification No. A.F.2437—Mart. 9-50-2, dated the 8th June 1950, His Highness the Maharaja of Mysore is pleased to declare that with effect from the 1st April 1951, Tumkur Town Municipal Limits, shall be a "Market" established under the said Act for the Agricultural produce noted below :—

1. Groundnut.
2. Soapnuts.
3. Tamarind.
4. Jaggery.
5. Arecanuts.
6. Honge seeds.

By Order of His Highness the Maharaja,

No. S.R. 3296—W. & M. 8-48-7, dated Bangalore, the 13th September 1950.

In exercise of the powers conferred by section 3A of the Mysore Weights and Measures Act, 1902 (Mysore Act III of 1902), read with rule 17 of the rules framed for regulating the use of weights and measures of capacity under the said Act and in supersession of Notifications No. D. 5353—I. & C. 16-30-37, dated the 25th April 1933, and No. D. 4748—I. & C. 149-33-5, dated the 5th April 1934, His Highness the Maharaja of Mysore is pleased to prescribe the following rates of fees to be paid with effect from 1st October 1950, for testing and stamping weights and measures of capacity, namely :—

Capacity	*Testing and Stamping fees to be levied.*
	Rs. a. p.
Maund weights—	
(1) 2 Maunds	0 9 0
(2) 1 Maund	0 7 0
(3) 1/2 „	0 5 0
(4) 1/4 „	0 3 0
(5) 1/8 „	0 2 0
(6) 1/16 „	0 1 0
(7) 1/32 „	0 1 0
Seer weights.—	
(1) 1 Seer weight	0 1 0
(2) 1/2 „	0 1 0
(3) 1/4 „	0 1 0
(4) 1/8 „	0 1 0
(5) 1/16 „	0 1 0
Seer measures.—	
(1) 1 Seer measure	0 4 0
(2) 1/2 „	0 2 0
(3) 1/4 „	0 2 0
(4) 1/8 „	0 1 0
(5) 1/16 „	0 1 0

By Order of His Highness the Maharaja,

No. C. 832– Co. 24-49-17, dated Bangalore, the 18th September 1950.

In exercise of the powers conferred by sub-clause (1) of clause 6 of the Mysore Cotton Textiles (Export Control) Order, 1949, His Highness the Maharaja is pleased to direct that the following further amendment shall be made in the notification No. C. 456—Co. 24-49-3, dated 11th October 1949, namely : —

In item (*a*) of paragraph 6 of the said notification, *for* the words, letters and figures,

"in item (*b*) of sub-paragraph (1) of paragraph 2 of the Textile Commissioner's Notification No. 9(9)-Tex. 1/49, dated the 31st May 1950"

the words, letters and figures,

"for such cloth in the Textile Commissioner's Notification No. 9(9)-Tex. 1/49 (1), dated the 6th July 1950"

shall be substituted.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
Secretary to Government,
Food and Agriculture Departments.

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PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1913—Legis. 5-50-16, Bangalore, dated 20th September 1950

Ordered that the following The Constitution (Scheduled Tribes) Order, 1950 (C. O. 22) published in the *Gazette of India*,

Part II, Section 3, dated the 6th September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF LAW.

NOTIFICATION.

New Delhi, the 6th September 1950.

S.R.O. 510.—The following Order made by the President is published for general information :—

C. O. 22.

THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In exercise of the powers conferred by clause (1) of Article 342 of the Constitution of India the President, after consultation with the Governors and Rajpramukhs of the States concerned, is pleased to make the following Order, namely :—

1. This Order may be called the Constitution (Scheduled Tribes) Order, 1950.

2. The tribes or tribal communities, or parts of, or groups within, tribes or tribal communities, specified in Parts I to XIV of the Schedule to this Order shall, in relation to the States to which those Parts respectively relate, be deemed to be Scheduled Tribes so far as regards members thereof resident in the localities specified in relation to them respectively in those Parts of that Schedule.

3. Any reference in the Schedule to this Order to a district or other territorial division of a State shall be construed as a reference to that district or other territorial division as existing on the 26th January, 1950.

THE SCHEDULE.

Part I—Assam.

1. In the Autonomous Districts :—
   1 Dimasa (Kachari)
   2 Garo
   3 Hajong
   4 Khasi and Jaintia
   5 Any Kuki tribes
   6 Lakher
   7 Any Lushai (Mizo) tribes
   8 Mikir
   9 Any Naga tribes
   10 Synteng

2. In the Tribal Areas other than the Autonomous Districts :—
   1 Abor
   2 Aka
   3 Apatani
   4 Dafla
   5 Galong
   6 Khampti
   7 Mishmi
   8 Any Naga tribes
   9 Singpho
   10 Momba
   11 Sherdukpen

3. In the State of Assam excluding the Tribal Areas :—

1 Boro—Borokachari
2 Deori
3 Hojai
4 Kachari
5 Lalung
6 Mech
7 Miri
8 Rabha

Part II—Bihar.

1. Throughout the State :—

1 Asur
2 Baiga
3 Bathudi
4 Bedia
5 Binjhia
6 Birhor
7 Birjia
8 Chero
9 Chik Baraik
10 Gond
11 Gorait
12 Ho
13 Karmali
14 Kharia
15 Kharwar
16 Khond
17 Kisan
18 Kora
19 Korwa
20 Lohara
21 Mahli
22 Mal Paharia
23 Munda
24 Oraon
25 Parhaiya
26 Santal
27 Sauria Paharia
28 Savar

2. In the Districts of Ranchi, Singbhum, Hazaribagh, Santal Parganas and Manbhum :—

Bhumij

Part III—Bombay.

Throughout the State :—

1 Barda
2 Bavacha
3 Bhil, including
Bhagalia,
Bhil Garasia,
Dholi Bhil,
Dungri Bhil,
Dungri Garasia,
Mewasi Bhil,
Raval Bhil and
Tadvi Bhil
4 Chodhara
5 Dhanka
6 Dhodia
7 Dubla
8 Gamit or Gamta
9 Gond
10 Kathodi or Katkari
11 Konkna
12 Koli Dhor
13 Koli Mahadev
14 Mavchi
15 Naikda or Nayak
16 Pardhi, including
Advichincher and
Phanse Pardhi
17 Patelia
18 Pomla
19 Powara
20 Rathawa
21 Thakur
22 Valvai
23 Varli
24 Vasava

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Part IV—Madhya Pradesh.

In (1) Melghat taluq of Amravati district,
(2) Baihar tahsil of Balaghat district,
(3) Bhanupratappur, Bijapur, Dantewara, Jagdalpur, Kanker, Kondagaon, Konta, and Narayanpur tahsils of Bastar district,
(4) Betul and Bhainsdehi tahsils of Betul district,
(5) Katghora tahsil of Bilaspur district.
(6) Suroncha and Gharchiroli tahsils of Chanda district,
(7) Amarwara, Chhindwara and Lakhnadon tahsils of Chhindwara district,
(8) Balod (Sanjari) tahsil of Durg district,
(9) Mandla, Niwas and Ramgarh (Dindori) tahsils of Mandla district,
(10) Harsud tahsil of Nimar district,
(11) Dharamjaigarh, Ghargoda, Jashpurnagar and Kharsia tahsils of Raigarh district,
(12) Ambikapur, Baikunthpur, Bharatpur, Janakpur, Manendragarh, Pal, Samari and Sitapur tahsils of Sarguja district :—

1 Andh
2 Baiga
3 Bhaina
4 Bharia-Bhumia or Bhuinhar-Bhumia
5 Bhattra
6 Bhil
7 Bhunjia
8 Binjhwar
9 Birhul or Birhor
10 Dhanwar
11 Gadaba or Gadba,
12 Gond [including Madia (Maria) and Mudia (Muria)]
13 Halba
14 Kamar
15 Kawar or Kanwar
16 Kharia
17 Kondh or Khond or Kandh
18 Kol
19 Kolam
20 Korku
21 Korwa
22 Majhwar
23 Munda
24 Nagesia or Nagasia
25 Nihal
26 Oraon
27 Pardhan
28 Pardhi
29 Parja
30 Saonta or Saunta
31 Sawar or Sawara.

Part V—Madras.

Throughout the State —

1 Aranadan
2 Bagata
3 Bhottadas—Bodo Bhottada, Muria Bhottada and Sano Bhottada
4 Bhumias—Bhuri Bhumia and Bodo Bhumia
5 Chenchu
6 Gadabas—Boda Gadaba, Cerllam Gadaba, Franji Gadaba, Jodia Gadaba, Olaro Gadaba, Pangi Gadaba and Pranga Gadaba
7 Gondi—Modya Gond and Rajo Gond

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8 Goudus—Bato, Bhirithya Dudhokouria, Hato, Jatako and Joria
9 Kosalya Goudus—Bosothoriya Goudus, Chitti Goudus, Dangayath Goudus, Doddu Kamariya, Dudu Kamaro, Ladiya Goudus and Pullosoriya Goudus
10 Magatha Goudus—Bernia Goudu, Boodo Magatha, Dongayath Goudu, Ladya Goudu, Ponna Magatha and Sana Magatha
11 Holva
12 Jadapus
13 Jatapus
14 Kammara
15 Kattunayakan
16 Khattis—Khatti, Kommarao and Lohara
17 Kodu
18 Kommar
19 Konda Dhoras
20 Konda Kapus
21 Kondareddis
22 Kondhs—Desaya Kondhs, Dongria Kondhs, Kuttiya Kondhs, Tikiria Kondhs and Yenity Kondhs.
23 Kota
24 Kotia—Bartika, Bentho Oriya, Dhulia or Dulia, Holva Paiko, Putiya, Sanrona and Sidho Paiko
25 Koya or Goud, with its subsects—Raja or Rasha Koyas, Lingadhari Koyas (ordinary) and Kottu Koyas
26 Kudiya
27 Kurumans
28 Manna Dhora
29 Maune
30 Mukha Dhora—Nooka Dhora
31 Muria
32 Paigarapu
33 Palasi
34 Paniyan
35 Porjas—Bodo Bonda, Daruva, Didua, Jodia, Mundili, Pengu, Pydi and Saliya
36 Reddi Dhoras
37 Savaras—Kapu Savaras, Khutto Savaras and Maliya Savaras
38 Sholaga
39 Toda
40 Inhabitants of the Laccadive, Minicoy and Amindivi Islands who, and both of whose parents, were born in these Islands.

Part VI—Orissa.

Throughout the State :—

1 Bagata
2 Baiga
3 Banjara or Banjari
4 Bathudi
5 Bhuiya or Bhuyan
6 Binjhal
7 Binjhia or Binjhoa
8 Birhor
9 Bondo Poraja
10 Chenchu
11 Dal
12 Gadaba
13 Ghara
14 Gond
15 Gorait or Korait
16 Ho
17 Jatapu
18 Juang
19 Kawar
20 Kharia or Kharian
21 Kharwar
22 Khond (Kond), or Kandha, or Nanguli Kandha, or Sitha Kandha
23 Kisan
24 Kolah-Kol-Loharas
25 Kolha
26 Koli
27 Kondadora
28 Kora
29 Korua
30 Koya
31 Kulis
32 Mahali
33 Mankidi
34 Mankirdia

35 Mirdhas
36 Munda (Munda-Lohara and Munda-Mahalis)
37 Mundari
38 Oraon
39 Paroja
40 Santal
41 Saora, or Savar, or Saura, or Sahara
42 Tharua

Part VII—Punjab.

In Spiti and Lahaul in Kangra District :—
Tibetan

Part VIII—West Bengal.

Throughout the State :—

1 Bhutia
2 Lepcha
3 Mech
4 Mru
5 Munda
6 Oraon
7 Santal

Part IX—Hyderabad.

Throughout the State :—

1 Andh
2 Bhil
3 Chenchu, or Chenchwar
4 Gond (including Naikpod and Rajgond)
5 Hill Reddis
6 Kolam (including Mannervarlu)
7 Koya (including Bhine Koya and Rajkoya)
8 Pardhan
9 Thoti

Part X—Madhya Bharat.

1. Throughout the State :—

1 Gond
2 Korku
3 Seharia

2. In the Revenue District of Jhabua ; in the tahsils of Sendhwa, Barwani, Rajpur, Khargone, Bhikangaon and Maheshwar of the Revenue District of Khargone ; in the tahsil of Sailana of the Revenue District of Ratlam ; in the tahsils of Sardarpur, Kukshi, Dhar and Manawar of the Revenue District of Dhar :—
Bhils and Bhilalas (inclusive of sub-tribes)

Part XI—Mysore.

Throughout the State :—

1 Hasalaru
2 Iruliga
3 Jenu-Kuruba
4 Kadu-Kuruba
5 Maleru
6 Soligaru

Part XII—Rajasthan.

Throughout the Scheduled Areas of the State :—
Bhil

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Part XIII—Saurashtra.

Throughout the State :—

1 Abodia
2 Daffer
3 Ghantia
4 Miyana
5 Sindhi
6 Wedva Waghri

Part XIV—Travancore-Cochin.

Throughout the State :—

1 Hill Pulaya
2 Kadar
3 Kanikaran
4 Kochu Velan
5 Malai Arayan
6 Malai Pandaram
7 Malai Vedan
8 Malayan
9 Malayarayar
10 Mannan
11 Muthuvan
12 Pallcyan
13 Palliyar
14 Ulladan (Hill dwellers)
15 Uraly
16 Vishavan

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secretary.

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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

(HOME DEPARTMENT).

No. H. A. 5840—Pol. 313-50-22, dated Bangalore, the 2nd September 1950.

In exercise of the powers conferred by Section 8 of the Cinematograph Act, 1923 (XII of 1923), His Highness the Maharaja of Mysore is pleased to direct that the following further amendment shall be made in the Mysore Cinematograph Rules, 1946, namely—

After Rule 58 of the Mysore Cinematograph Rules, 1946, the following rule shall be inserted, namely :—

"58-A. No person shall smoke in the auditorium first tier, gallery or balcony extending over any part of the auditorium." Prohibition of smoking in the auditorium.

By Order of His Highness the Maharaja,

No. H.A. 5678—Pol. 317-50-2, dated Bangalore, the 23rd September 1950.

In exercise of the powers conferred by Sub-Section I of Section 7 of the Cinematograph Act, 1923, and in partial modification of the Notification No. H. 4579—Pol. 192-49-4, dated 12th August 1950, His Highness the Maharaja is pleased to appoint the Inspector-General of Police as the President and the Deputy Inspector-General of Police, Bangalore City, as the Vice-President of the Mysore Cinematograph Board constituted in the Notification mentioned above.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

No. Fl. 5462—G. F. 42-50-5, dated Bangalore, the 20th September 1950.

In exercise of the powers conferred by sub-section (1) of section 6 of the Government Securities Act, 1925, (Mysore Act VIII of 1925), His Highness the Maharaja of Mysore is pleased to declare that the provisions of the said sub-section shall apply to the Office of the Accountant-General, Mysore, Bangalore.

By Order of His Highness the Maharaja,

No. Fl. 5464—G. F. 42-50-6, dated Bangalore, the 20th September 1950.

In exercise of the powers conferred by section 23 of the Government Securities Act, 1925, (Mysore Act VIII of 1925), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made to the Government Securities Rules, 1925, the draft of the amendments having been previously published in the *Mysore Gazette* (*Vide* Notification No Fl. 2532—G.F. 42-50-2, dated 20th June 1950), as required by sub-section (1) of the said section.

Amendments.

In Rule 1 (2) of the said Rules, the words "His Highness the Maharaja of" shall be omitted.

For clause (b) of Rule 2 (1) of the said Rules, the following clause shall be substituted, namely :—

"(b) "Comptroller" means, the Accountant-General, Mysore, Bangalore".

By Order of His Highness the Maharaja,

M. SHAMANNA,
Secretary to Governemnt,
Finance Department.

No. S.R. 3363—Regis. 2-50-4, dated Bangalore, the 20th September 1950.

In exercise of the powers conferred by Section 5 of the Mysore Registration Act, 1903, (Mysore Act I of 1903), His Highness the Maharaja of Mysore is pleased to direct that the enclaves, which were included in and form part of the State of Mysore by virtue of Article 3 of the Provinces and States (Absorption of Enclaves) Order, 1950, and which form part of the existing revenue districts of the State by virtue of the Order made in Notification No. R. 3678/L.S. 85-49-26, dated the 22nd June 1950, shall be included in and form part of the respective districts and sub-districts as specified in the schedule for the purposes of the said Act, namely :—

Schedule.

Names of villages of Madras Province				Now transferred and included in Mysore	
District	Taluk	Sl. No.	Names of Asli villages	Registration District	Registration Sub-district
1	2	3	4	5	6
Salem	Hosur	1	Araleri	Kolar	Malur
Do	Do	2	Rayasandiram	Do	Do
		3	Tolasanapally	Do	Do
Do	Do	4	Estakodo,	Do	Do
Ananthapur		5	Chowlakunta-palli	Do	Gudibanda
Salem	Hosur	6	Madivalam	Bangalore	Anekal
		7	Marasur	Do	Do
Ananthapur	Madakasira	8	Kotagarlahalli	Tumkur	Madhugiri
		9	Jodi Sarjamana-halli	Do	Do
Do	Do	10	Kanjanahalli	Chitaldrug	Hiriyur
South Canara	Coondapura	11	Nagodi	Shimoga	Hosanagar
Do	Do	12	Hebbige	Do	Do
Do	Do	13	Kotesirur	Do	Do

By Order of His Highness the Maharaja,

T. RANGAMALLIAH,
Secretary to Government,
Revenue Department.

No. A. F. 5543—Mart. 27-50-2, dated Bangalore, the 26th September 1950.

In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Mysore Agricultural Produce Markets Act, 1939, (Mysore Act No. XVI of 1939), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made to the Mysore Agricultural Produce Markets Rules, 1947, the draft of the same having been previously published at pages 170 and 171 in Part IV of the *Mysore Gazette*, dated the 20th April 1950, as required by Sub-Section (4) of the said Section.

Amendment.

In the said rules, for the words and figures "Rs. 1-9-0 per cent" occurring in the Note to sub-rule (2) of rule 55, the figures and words "Rs. 2-0-0 per cent" shall be substituted.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
Secretary to Government,
Food and Agriculture Departments.

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PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1944—L.A. 59-50-2, dated the Bangalore, 27th September 1950.

In exercise of the powers conferred by Article 186 read with Clause (8) of Article 238 of the Constitution of India, the Rajpramukh of Mysore His Highness the Maharaja is pleased to determine that the Deputy Speaker of the Legislative Assembly of Mysore whenever he proceeds to Delhi to attend the Conference of Presiding Officers of Legislative Bodies in India shall be paid Travelling Allowance and Daily Allowance at the rates admissible to Secretaries to Government for journeys made to Delhi.

JAYA CHAMARAJA WADIYAR,
Maharaja of Mysore.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS

No. Fl. 5750—S.T. 27-50-2, dated Bangalore, the 29th September 1950.

In exercise of the powers conferred by section 8 of the Mysore Sales-Tax Act, 1948, (Mysore Act No. XLVI of 1948), His Highness the Maharaja of Mysore is pleased to notify the following further list of finished articles of industrial manufacture as those in respect of which a rebate shall be allowed under the said section:—

1. Radio Receivers. 2. Extruded Plastic Materials.	Manufactured by REMCO Ltd., Bangalore.

By Order of His Highness the Maharaja,

M. SHAMANNA,
Secretary to Government,
Finance Department.

No. C. 868—Co. 23-49-49, dated Bangalore, the 27th September 1950.

In exercise of the powers conferred by Section 3 and Clause (*a*) of sub-section (1) of Section 4 of the Mysore Drugs (Control) Act, 1950 (Mysore Act No. VI of 1950), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the schedule to Notification No. C. 3130—Co., dated the 3rd October 1949, namely :—

In respect of the drugs in the said schedule specified in column 1 hereunder which are manufactured by Eli Lilly and Company of India, Incorporated, May and Baker (India), Ltd., and Martin and Harris, Ltd., Bombay (E. R. Squibb & Sons International Corporation, Incorporated, New York, U.S.A.), for the prices specified in column 2 of

the said schedule, the prices specified in column 2 hereunder shall be substituted.

Eli Lilly and Company of India Incorporated.

Pencillin—G. Crystalline—Potassium Buffered

50,000 units tablets—per 12	...	Rs. 6 14 0
100,000 units tablets—per 12	...	Rs. 12 8 0

May and Baker (India), Ltd.

'Thalazole' Brand Phythalylsulphathiazole tablets

Containers of—

25 × 0·50 gramme	...	Rs. 4 0 0
100 × 0·50 gramme	...	Rs. 14 11 0

Martin and Harris, Ltd., Bombay.

E. R. Squibb & Sons International Corporation Incorporated, New York, U. S. A.

Pencillin Crystalline G Potassium or Sodium

Vial of 10,00,000 units	...	Rs. 6 3 0

By Order of His Highness the Maharaja,

No. A.F. 5577—Agri. 156-50-2, dated Bangalore, the 27th September 1950.

In exercise of the powers conferred by Section 18 of the Mysore Cigarette Tobacco Safeguarding Act, 1939 (Mysore Act VI of 1939), His Highness the Maharaja of Mysore is pleased to direct that for rule 3 of the rules issued in Notification No. A.F. 1390—Agri. 289-38-4, dated 26th September 1939, the following rule shall be substituted.

"3. The price at which the seedlings shall be sold to growers by any person licensed under rule 1, shall not exceed rupees three per thousand seedlings."

By Order of His Highness the Maharaja,

A. S. KHALEEL,
Secretary to Government,
Food and Agriculture
Departments.

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EXTRAORDINARY

BANGALORE, MONDAY, OCTOBER 16, 1950

PART IV

Section 2-A.

BILLS, SELECT COMMITTEE REPORTS, IF ANY, THEREON AND ACTS AND ORDINANCES OF MYSORE.

NOTIFICATIONS.

Order No. L.D. 2135—Legis. 21-50-1, Bangalore, dated 14—16th October 1950.

Ordered that the following Betting Tax (Second Amendment) Act, 1950, which received the assent of His Highness the Maharaja, on the Fifth day of October 1950, be published as Mysore Act No. XVIII of 1950, in the *Mysore Gazette* for general information.

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MYSORE ACT No. XVIII OF 1950.

THE BETTING TAX (SECOND AMENDMENT) ACT, 1950.

(Received the assent of His Highness the Maharaja on the Fifth day of October 1950.)

An Act further to amend the Betting Tax Act, 1932.

Preamble.

WHEREAS it is expedient further to amend the Betting Tax Act, 1932, (Mysore Act IX of 1932), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Betting Tax (Second Amendment) Act, 1950.

(2) It shall come into force at once.

Amendment of section 6, Act IX of 1932.

2. In section 6 of the Betting Tax Act, 1932, (hereinafter referred to as the said Act),—

(1) in sub-section (1), for the words "out of all moneys paid or agreed to be paid by a licensed bookmaker to a backer in consequence of the winning by the backer", the words "out of all moneys paid or agreed to be paid to a licensed bookmaker by a backer in respect" shall be substituted; and the words "on backers" shall be omitted; and

(2) in sub-section (2), for the words "paid to the backer", the words "paid by the backer" shall be substituted.

Amendment of section 8, Act IX of 1932.

3. In sub-section (2) of section 8 of the said Act, for the words "all sums paid or agreed to be paid by them to backers in satisfaction of bets", the words "all moneys paid or agreed to be paid to them by backers in respect of bets" shall be substituted.

Repeal and savings.

4. The Betting Tax (Amendment) Ordinance, 1950, (Mysore Ordinance No. II of 1950), is hereby repealed. But any rules made, anything done and any action

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taken in exercise of any power conferred by or under the Betting Tax Act, 1932, as amended by the said Ordinance, shall be deemed to have been made, done or taken in exercise of the powers conferred by or under the Betting Tax Act, 1932, as amended by this Act, as if this Act had come into force on the twenty-third day of May 1950.

By Order of His Highness the Maharaja,

Order No. L.D. 2136—Legis. 22-50-1, Bangalore, dated 14—16th October 1950.

Ordered that the following Mysore Alienated Villages (Protection of Tenants and Miscellaneous Provisions) Act, 1950, which received the assent of His Highness the Maharaja, on the Fifth day of October 1950, be published as Mysore Act No. XIX of 1950, in the *Mysore Gazette*, for general information.

MYSORE ACT No. XIX OF 1950.

THE MYSORE ALIENATED VILLAGES (PROTECTION OF TENANTS AND MISCELLANEOUS PROVISIONS) ACT, 1950.

(Received the assent of His Highness the Maharaja on the Fifth day of October, 1950.)

An Act to provide for temporary protection of tenants in alienated villages in Mysore and to ensure that such tenants are not deprived of the usual amenities reserved for the use of the village community.

WHEREAS it is expedient to provide, pending further legislation, for the temporary protection against eviction of tenants in alienated villages and also to ensure that the tenants are not deprived of the usual amenities by the disposal of trees, and to provide for the control of alienation of reserved land, and of lands in the possession of tenants; Preamble.

It is hereby enacted as follows:—

1. (1) This Act may be called the Mysore Alienated Villages (Protection of Tenants and Miscellaneous Provisions) Act, 1950. Short title, extent, commencement and duration.

(2) It extends to the whole of the State of Mysore and shall apply to all alienated villages in the State.

(3) It shall come into force at once, and shall remain in force up to and inclusive of the 31st day of December, 1952.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:—

(1) "alienated village" includes a Khayamgutta village;

(2) "reserved land" means, in an alienated village to which the provisions of Chapters VIII and IX of the Mysore Land Revenue Code, 1888, have been applied, all lands which have been reserved under section 39 of the said Code, and, in an alienated village to which Chapters VIII and IX of the said Code have not been applied, all land other than—

(*a*) land held by Kadim tenants or permanent tenants; or land in the possession of tenants at will, and

(*b*) land in the possession of the holder of the alienated village and cultivated by himself or by his own servants or by hired labour, uninterruptedly from the first day of July, 1946.

(3) All other expressions shall have the meanings assigned to them respectively in the Mysore Land Revenue Code, 1888.

Control of eviction of tenants.

3. Notwithstanding anything contained in any law for the time being in force, or any contract between the parties, no suit shall lie for the eviction of a tenant in an alienated village who has been holding, or is in possession of, land used for purposes of agriculture uninterruptedly from the first day of July, 1946, nor such tenant shall be evicted in pursuance of any decree or order of any court, or otherwise, if such tenant tenders to the superior holder, or any person acting on his behalf, within two months from the date of commencement of this Act, the rent or land revenue due in respect of the land up to and including the year ending with the thirtieth day of June, 1949, and is willing to hold or continue in possession of the land thereafter as a tenant on the same terms and

conditions on which he was holding, or was in possession of, the same on the said first day of July, 1946:

Provided that, subject to the provisions of section 4, the protection afforded by this section shall continue only so long as the rent or land revenue for any year is tendered by the tenant to the superior holder, or any person acting on his behalf, before the expiry of the thirtieth day of June of that year.

Reduction or suspension of rent in certain cases.

4. When owing to inadequate rainfall in any tract the State Government orders the suspension or remission of assessment in respect of lands in the said tract, the rent or land revenue payable by a tenant in an alienated village in the said tract to his superior holder shall be deemed to have been suspended or remitted in the same proportion as the assessment due to the State Government in such tract in respect of unalienated villages is suspended or remitted.

Revival of rights, liabilities and obligations after the expiry of the Act.

5. Any right, privilege, obligation or liability acquired, accrued or incurred under any enactment, decree or order of any court, or under any contract between the parties, immediately before the commencement of this Act, or which may be acquired, accrued or incurred, during the period this Act remains in force, but the enforcement of which has been stayed by the provisions of this Act shall, notwithstanding anything contained in section 6 of the Mysore General Clauses Act, 1899, immediately on the expiration of this Act, revive and be enforceable as if this Act had not been passed.

In computing the period of limitation for the enforcement of any such right, privilege, obligation or liability, the period during which the proceedings in respect thereof are stayed under this Act shall be excluded, notwithstanding anything contained in any law for the time being in force.

Control of alienation of reserved lands.

6. (1) No superior holder shall, without the previous approval in writing of the Deputy Commissioner, sell, mortgage, lease or otherwise assign or alienate any reserved land or land in the possession of tenants in any alienated village.

(2) Notwithstanding anything contained in any law for the time being in force, any sale, mortgage, lease or

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other assignment or alienation of any reserved land or of land in the possession of tenants effected

(i) after the first day of July, 1948; or

(ii) after the commencement of this Act in contravention of sub-section (1),

shall be void and shall have no effect:

Provided that any sale, mortgage, lease, or other assignment or alienation effected after the first day of July, 1948, and before the commencement of this Act, shall not be void, if such sale, mortgage, lease, assignment or alienation is confirmed by the Deputy Commissioner on the ground—

(*a*) that the transaction has been entered into in good faith; or

(*b*) that the transaction has been entered into for valuable consideration; or

(*c*) that confirmation is necessary for maintaining the agricultural economy of the State.

Control of appropriation of agricultural land for non-agricultural purposes.

7. (1) No superior holder shall, without the previous approval in writing of the Deputy Commissioner, appropriate, or grant permission to any tenant to appropriate any land appropriated for purposes of agriculture, for any purpose unconnected with agriculture.

(2) Notwithstanding anything contained in any law, or usage or custom having the force of law, for the time being in force, the appropriation, or the grant of permission for the appropriation, of any land appropriated for purposes of agriculture, for any purpose unconnected with agriculture in contravention of sub-section (1) shall have no effect.

(3) Any person who contravenes the provisions of sub-section (1) and any person who abets such contravention shall be punishable with imprisonment which may extend to one month or with fine which may extend to two hundred rupees or with both.

Control of disposal of trees.

8. (1) Notwithstanding anything contained in any law for the time being in force, no person shall fell, lop, sell or otherwise dispose of, any tree, in an alienated village, except under the orders in writing of the Deputy Commissioner.

Provided that the State Government may, by notification in the *Mysore Gazette*, exempt any specified class or classes of trees from the operation of this sub-section.

(2) Any person who contravenes the provisions of sub-section (1) and any person who abets such contravention, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Appeals and revision.

9. (1) Any person aggrieved by any order of a Deputy Commissioner under this Act may, within thirty days from the date of communication of the order, appeal to the Revenue Commissioner ; and the decision of the Revenue Commissioner on such appeal shall, subject to the provisions of sub-section (2), be final.

(2) The State Government may, in its discretion, call for and examine the record of any order passed by the Deputy Commissioner or the Revenue Commissioner for the purpose of satisfying itself as to the propriety of such order and may pass such order in reference thereto as it thinks fit.

Deputy Commissioner to sanction prosecutions.

10. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Deputy Commissioner of the District.

Bar of jurisdiction.

11. (1) No notification issued or order made in exercise of any power conferred by or under this Act shall be called in question in any proceeding in a court of law.

(2) No suit or other legal proceeding shall lie against the State Government, the Revenue Commissioner or the Deputy Commissioner or any other person in respect of any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

Rules.

12. The State Government may, by notification in the *Mysore Gazette*, make rules to carry out the purposes of this Act.

Repeal and savings.

13. The Mysore Alienated Villages (Protection of Tenants and Miscellaneous Provisions) Ordinance, 1950, (Mysore Ordinance No. III of 1950), is hereby repealed.

But any rules or orders made, anything done and any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of the powers conferred by or under this Act, as if this Act had come into force on the eleventh day of June 1950.

By Order of His Highness the Maharaja,

Order No. L. D. 2137—Legis. 23-50-1, Bangalore, dated 14—16th October 1950.

Ordered that the following Mysore Electricity (Taxation on Consumption) Act, 1950, which received the assent of His Highness the Maharaja, on the Fifth day of October 1950, be published as Mysore Act No. XX of 1950, in the *Mysore Gazette*, for general information.

MYSORE ACT No. XX OF 1950.

THE MYSORE ELECTRICITY (TAXATION ON CONSUMPTION) ACT, 1950.

(Received the assent of His Highness the Maharaja on the Fifth day of October 1950.)

An Act to provide for the levy of a tax on the consumption of electrical energy in Mysore.

Preamble.

WHEREAS it is expedient to provide for the levy of a tax on the consumption of electrical energy supplied by the Electrical Department of the State Government;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Electricity (Taxation on Consumption) Act, 1950.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "consumer" includes a local authority, company or other person who consumes energy supplied by the Electrical Department of the State Government;

(2) "energy" means electrical energy ;

(3) "prescribed" means prescribed by rules made under this Act.

Levy of tax on consumption of energy.

3. Subject to the provisions of this Act, every consumer shall pay every month to the State Government, at such time and in such manner as may be prescribed, a tax calculated at a rate not exceeding two pies per unit of energy as may, from time to time, by notification in the *Mysore Gazette*, be specified by the State Government, on and in respect of all energy consumed by the said consumer during the previous month.

Arrears of tax recoverable as an arrear of land revenue.

4. The tax payable under this Act which remains unpaid, shall be recoverable as an arrear of land revenue.

Power of State Government to notify exemptions and reductions of tax.

5. The State Government may, by notification in the *Mysore Gazette*, make an exemption or reduction in rate in respect of the tax payable under this Act—

(i) on energy supplied for any specified purpose ; or

(ii) by any specified consumer or class of consumers.

Power to make rules.

6. The State Government may, by notification in the *Mysore Gazette*, make rules to carry out the purposes of this Act.

Repeal and savings.

7. The Mysore Electricity (Taxation on Consumption) Ordinance, 1950, (Mysore Ordinance No. IV of 1950), is hereby repealed. But any rules made, any notification issued, anything done and any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, issued, done or taken in exercise of the powers conferred by or under this Act, as if this Act had come into force on the first day of July, 1950.

By Order of His Highness the Maharaja,

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Order No. L.D. 2138—Legis. 24-50-1, Bangalore, dated 14th/16th October 1950.

Ordered that the following Mysore Contingency Fund Act, 1950, which received the assent of His Highness the Maharaja, on the Fifth day of October 1950, be published as Mysore Act No. XXI of 1950, in the *Mysore Gazette*, for general information.

MYSORE ACT No. XXI OF 1950.

THE MYSORE CONTINGENCY FUND ACT, 1950.

(Received the assent of His Highness the Maharaja on the Fifth day of October 1950.)

An Act to provide for the establishment of a Contingency Fund for the State of Mysore.

Preamble.

WHEREAS clause (2) of Article 267 of the Constitution of India provides that the Legislature of a State may by law establish a Contingency Fund in the nature of an imprest;

AND WHEREAS it is expedient to establish such a Contingency Fund for the State of Mysore;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Mysore Contingency Fund Act, 1950.

(2) It extends to the whole of the State of Mysore.

Establishment of a Contingency Fund.

2. There shall be established for the State of Mysore a Contingency Fund in the nature of an imprest, called "the Contingency Fund of the State of Mysore", and consisting of a sum of thirty lakhs of rupees withdrawn from the Special Reserve Fund of the State.

Custody of the Contingency Fund and withdrawals therefrom.

3. The Contingency Fund of the State of Mysore shall be held on behalf of the Rajpramukh by the Secretary to the State Government, Finance Department, and no advances shall be made out of such Fund except for the purpose of meeting unforeseen expenditure pending authorisation of such expenditure by the State Legislature under appropriations made by law.

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4. The State Government may, by notification in the *Mysore Gazette*, make rules for the purpose of carrying into effect the provisions of this Act. Power to make rules.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. T. 5727—R.T. 82-50-4, dated Bangalore, 7th October 1950.

In exercise of the powers conferred by Rule 425 of the Mysore Motor Vehicles and Road Traffic Rules, 1945, His Highness the Maharaja of Mysore is pleased to exempt the new chevrolet saloon public service vehicle of 199 inches wheel base bearing chassis No. XTSXFFCB—6702-381, engine No. G.E.B. 199737-owned by Sri B. G. Sitarama Iyengar, Proprietor, Hassan Motor Service, Hassan, from the operation of Rule 359 of the said Rules subject to the condition that the overall length of the said vehicle shall not exceed twenty-seven and a half feet.

By Order of His Highness the Maharaja,

L. MUNISWAMY,

Secretary to Government,
Local Self-Government Department.

No. E. 6911—Edn. 135-49-5, dated Bangalore the 18th October 1950.

In exercise of the powers conferred by sub-section (1) of Section 9 of the Mysore Elementary Education Act, 1941, (Mysore Act No. VI of 1941), His Highness the Maharaja of Mysore is pleased to direct that in Notification No. E. 10585—Edn. 135-49-3, dated the 22nd March 1950, item "(2) Taxes on Vehicles and Animals" shall be omitted.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,

Secretary to Government,
Education Department.

No. L.S. 2485—L.W. 4-50-5, dated Bangalore, 10th October 1950.

In exercise of the powers conferred by sub-section (1) of Section 49 of the Mysore Shops and Establishments Act, 1948 (Mysore Act II of 1948), His Highness the Maharaja of Mysore is pleased to direct that the following amendments shall be made to the Mysore Shops and Establishments Rules, 1948, the draft of the same having been previously published under Notification No. L.S. 391—L.W. 4-50-3, dated 4th May 1950 in Part IV—Section 2-B of the *Mysore Gazette* dated 11th May 1950 as required by sub-section (3) of the said section:—

Amendments.

In the said Rules,—

(1) In sub-rule (9) of Rule 37, for the word "Government" wherever it occurs, the words "Commissioner of Labour" shall be substituted.

(2) For Rule 38, the following Rule shall be substituted; namely:—

Manner of calculating the ordinary rate of wages.

"38": For the purpose of the explanation to Section 31, the ordinary rate of wages per hour shall be calculated, by dividing the total wages payable to a person employed for the hours actually worked by him during the wage period by the number of such hours in the wage period:

Provided that the hours worked by a person employed in excess of the normal daily hours during the wage period shall be excluded in calculating the number of hours actually worked by him ".

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

No. C. 927—Co. 29-50-2, dated Bangalore, 10th October 1950

In exercise of the powers conferred by sub-clause (*j*) of clause 2 of the Cotton Control Order, 1950, published by the Ministry of Industry and Supply, Government of India, in Notification No. 1 (57) Tex-2—50 (ii), dated 13th September 1950, His Highness the Maharaja of Mysore is pleased to appoint the Controller of Civil Supplies in Mysore, Bangalore as the Licensing Authority for the purposes of the said Order for the State of Mysore.

By Order of His Highness the Maharaja,

A. S. KHALEEL,

Secretary to Government,
Food and Agriculture Departments.

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PART IV

Section I-A

BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L.D. 2030—Legis. 3-50-9, dated Bangalore, 5th October 1950.

Ordered that the following Bills No. 56, 57, 58, 59, 61 and 62 of 1950, published in the *Gazette of India*, Part II, Section 2, dated the 19th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,
B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

PART II—SECTION 2

BILLS AND REPORTS OF SELECT COMMITTEES ON BILLS

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 9th August 1950 :—

BILL NO. 56 OF 1950

A Bill to amend the Census Act, 1948.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Census (Amendment) Act, 1950.

2. *Amendment of section 1, Act XXXVII of 1948.*—In sub-section (*2*) of section 1 of the Census Act, 1948 (hereinafter referred to as the said Act), for the words "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin", the words "except the State of Jammu and Kashmir" shall be substituted.

3. *Insertion of new section 2 in Act XXXVII of 1948.*—After section 1 of the said Act, the following section shall be inserted, namely :—

"2. *Rule of construction respecting enactments not extending to Part B States.*—Any reference to the Indian Penal Code (Act XLV of 1860) or the Indian Evidence Act, 1872 (I of 1872), shall, in relation to a Part B State, be construed as a reference to the corresponding enactment in force in that State."

4. *Amendment of section 14, Act XXXVII of 1948.*—In section 14 of the said Act, after the words "Magistrate of the second class", the words "or in a Part B State, a Magistrate corresponding to a Magistrate of the second class" shall be inserted.

5. *Repeal and savings.*—(*1*) If immediately before the commencement of this Act there is in force in the States of Hyderabad and Mysore any law which corresponds to the said Act, it is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the repealed law shall be deemed to have been done or taken in the exercise of the powers conferred by or under the said Act, as if the said Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

The Census Act, 1948, does not extend to the States of Travancore-Cochin, Hyderabad, Mysore and Jammu and Kashmir. The States of Hyderabad and Mysore have local Census Acts of their own but not the State of Travancore-Cochin. In the absence of any such law it has become necessary to extend the Census Act, 1948, to that State. The Bill seeks to achieve this object. In the interests of uniformity, a provision has also been made to extend the Act to the States of Hyderabad and Mysore and for the repeal of the local Acts in force in those States. The result will be that there will be an uniform Census law throughout the country. The State of Jammu and Kashmir has been excluded from the operation of the Act as Parliament has no power to make a law for that State in respect of census. Moreover, it is not proposed to hold a census in that State next year.

V. J. PATEL.

NEW DELHI;
The 3rd August, 1950.

BILL NO. 57 OF 1950

A Bill to amend the Salaries of Ministers Act, 1947.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Salaries of Ministers (Amendment) Act, 1950.

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2. *Amendment of section 2, Act LIII of 1947.*—In section 2 of the Salaries of Ministers Act, 1947 (hereinafter referred to as the said Act), clause (*a*) shall be omitted.

3. *Substitution of new section for section 3, Act LIII of 1947.*—For section 3 of the said Act, the following section shall be substituted, namely:—

"3. *Salaries and allowances of Ministers.*—There shall be paid to each Cabinet Minister a salary of three thousand rupees *per mensem* and a sumptuary allowance of five hundred rupees *per mensem*, to each Minister of State a salary of three thousand rupees *per mensem*, and to each Deputy Minister a salary of two thousand rupees *per mensem*."

4. *Amendment of section 4, Act LIII of 1947.*—In sub-section (*1*) of section 4 of the said Act, for the words "Each Minister", the words "Each Cabinet Minister" shall be substituted.

5. *Repeal of Ordinance XX of 1950.*—The Salaries of Ministers (Amendment) Ordinance, 1950 (XX of 1950), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Salaries of Ministers Act, 1947, as adapted on the 26th January, 1950, provided only for the salaries, allowances and privileges of Cabinet Ministers. With the reconstitution of the Council of Ministers by the President on the 5th May, 1950, it became urgently necessary to amend the Act for fixing the salaries of Ministers of State and Deputy Ministers which, until then, were regulated by executive orders. Accordingly, the Salaries of Ministers (Amendment) Ordinance, 1950 (XX of 1950) was promulgated by the President on the 29th June, 1950.

This Bill seeks to give permanence to the amendments made by the Ordinance. Under the provisions of the Bill, Ministers of State as well as Deputy Ministers will continue to get the same salaries as before.

V. J. PATEL.

NEW DELHI;
The 4th August, 1950.

The following Bill was introduced in Parliament on the 10th August, 1950:—

BILL* No. 58 OF 1950

A Bill to provide for fixing fair rates of wages in certain classes of establishments and for certain matters connected therewith.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent, commencement and application.*—(*1*) This Act may be called the Fair Wages Act, 1950.

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* The President has, in pursuance of clause (3) of Article 117 of the Constitution of India, recommended to Parliament the consideration of the Bill.

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(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in any State on such date as the Central Government may, by notification in the Official Gazette, appoint for such State, and different dates may be appointed for different States.

(4) It applies to every establishment which is a factory within the meaning of clause (*m*) of section 2 of the Factories Act, 1948 (LXIII of 1948), or a mine within the meaning of clause (*j*) of section 3 of the Indian Mines Act, 1923 (IV of 1923), and may be applied by the appropriate Government to such class or classes of other establishments as may, by notification in the Official Gazette, be specified in this behalf.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "award" means the interim or final determination by the Board or a Regional Board of any matter referred to such Board or Regional Board;

(*b*) "Board" means a Wages Board constituted under section 4;

(*c*) "cost of living index number", in relation to any class of employees in any establishment to which this Act applies, means the index number ascertained and declared by the appropriate Government, by notification in the Official Gazette, to be the cost of living index number applicable to such class of employees in that establishment;

(*d*) "employee" means any person employed in any establishment to do any work for hire or reward, whether the employment be express or implied, but does not include a person who is receiving wages exceeding two hundred rupees per mensem;

(*e*) "establishment" means any unit of employment in any part of which a manufacturing process or mining process is being carried on or is ordinarily so carried on, but does not include any unit of employment carried on by or under the authority of the Central Government or a State Government;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "Regional Board" means a Regional Wages Board constituted under section 7;

(*h*) "standard family" means a family consisting of one person, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation.—For the purposes of this clause "adult consumption unit" means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 adult consumption units, respectively;

(*i*) the expressions "Appellate Tribunal", "appropriate Government", "certified bargaining agent", "employer", "labour tribunal", "lock-out", "strike", "trade union" and "wages" have the meanings respectively assigned to them in section 2 of the Labour Relations Act, 1950, and the expression "manufacturing process" has the meaning assigned to it in section 2 of the Factories Act, 1948 (LXIII of 1948).

3. *Rule of construction in applying Act to Part B States.*—In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in that State.

CHAPTER II

Boards and Regional Boards

4. *Constitution of Wages Boards.*—The appropriate Government may, by notification in the Official Gazette, constitute a Wages Board for the purpose of fixing fair rates of wages in the class of establishments in relation to which it is the appropriate Government and for discharging such other functions as may be assigned to it by or under this Act.

5. *Composition of Wages Boards.*—(*1*) A Board shall consist of a chairman and four other members to be appointed by the appropriate Government as follows:—

(*a*) the chairman to be appointed from amongst the chairmen of the Labour Tribunals;

(*b*) two members to represent the interests of employers; and

(*c*) two members to represent the interests of employees.

(*2*) The members to represent the interests of employers or employees shall be appointed in consultation with such associations of employers or trade unions of employees as the appropriate Government may think fit.

(*3*) Every appointment under this section shall take effect as soon as it is notified by the appropriate Government in the Official Gazette.

6. *Term of office of members of Boards.*—(*1*) Save as otherwise expressly provided in this Act, the term of office of a member of a Board shall be two years commencing from the date on which his appointment is notified in the Official Gazette.

(*2*) A member of the Board shall, on the expiration of his term of office, be eligible for reappointment.

7. *Regional Wages Boards.*—(*1*) Where the appropriate Government considers it necessary or expedient so to do, it may, by notification in the Official Gazette, constitute a Regional Wages Board for any local area for the purpose of fixing fair rates of wages in any class of establishments in that local area.

(*2*) A Regional Board for a class of establishments in any local area shall consist of a chairman and four other members to be appointed by the appropriate Government as follows:—

(*a*) the chairman to be appointed from amongst independent persons;

(*b*) two members to represent the interests of employers of that class of establishments in that local area; and

(*c*) two members to represent the interests of employees of that class of establishments in that local area.

Explanation.—Any person who is not connected with, or interested in, the matter referred to, or pending before, the Regional Board shall be deemed to be an independent person within the meaning of this sub-section.

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(3) Every appointment under this section shall take effect as soon as it is notified by the appropriate Government in the Official Gazette.

8. *Removal of members from office.*—The appropriate Government may, by notification in the Official Gazette, remove from office any member of the Board or a Regional Board who,—

(a) without excuse sufficient in the opinion of the appropriate Government, is absent without the leave of the Board or Regional Board, as the case may be, from more than four consecutive meetings of the Board or Regional Board; or

(b) in the opinion of the appropriate Government, has failed or is unable to carry out his duties.

9. *Resignation of office by members.*—A member of the Board or a Regional Board may resign his office by giving notice in writing to the appropriate Government, and, on such resignation being accepted by that Government, shall be deemed to have vacated his office.

10. *Filling of vacancies.*—(1) If there is a casual vacancy in the Board or a Regional Board, the appropriate Government may appoint another person in accordance with the provisions of section 5 or section 7, as the case may be, to fill the vacancy, and the person so appointed shall hold office only for the remainder of the term for which the member whose place he takes was appointed.

(2) If any member of the Board or a Regional Board is absent on leave or is, for some reason, rendered temporarily incapable of carrying out his duties in circumstances not involving the vacation of his appointment, the appropriate Government may appoint another person to act in his place for the period for which he is absent.

11. *Vacancies, etc., not to invalidate acts or proceedings.*—(1) The Board or a Regional Board may act, notwithstanding the absence of any member or any vacancy therein, if it has the prescribed quorum.

(2) No act or proceeding of the Board or a Regional Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

12. Allowances or fees for members of Boards and Regional Boards.—*Every member of a Board or Regional Board shall be entitled to receive such remuneration, allowances or fees as the appropriate Government may determine.*

13. Officers and servants of Boards and Regional Boards.—(1) *A Board may, subject to the approval of the appropriate Government, appoint such officers and servants as it considers necessary for the efficient performance of functions by the Board and Regional Boards.*

(2) *The conditions of appointment and service and the scales of pay of the officers and servants of the Board shall be such as may be prescribed.*

CHAPTER III

Powers, Functions and Procedure of Boards and Regional Boards

14. *Reference of fixation of fair wages to the Board or a Regional Board.*—Where the appropriate Government is of opinion that it is necessary or expedient to fix fair rates of wages in respect of the employees or any class of employees

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in any class of establishments, it may, at any time, by order in writing, refer the matter to the Board or a Regional Board for fixing fair rates of wages in respect of such employees or class of employees in that class of establishments.

15. *Proceedings before Board or Regional Board.*—(*1*) Where any reference is made under section 14 to the Board or a Regional Board, such Board or Regional Board shall hold its proceedings expeditiously and fix fair wages having regard to the principles laid down in Chapter IV and other provisions of this Act and shall, as soon as practicable on the conclusion of the proceedings before it, submit its award to the appropriate Government.

(*2*) The Board or a Regional Board shall, subject to the rules made under this Act, maintain a record of the proceedings before it including the statements of parties and witnesses and relevant documents.

(*3*) The award shall be in writing and signed by the members of the Board or of the Regional Board, as the case may be, hearing the reference :

Provided that nothing in this sub-section shall be deemed to prevent a member from recording a minute of dissent from the award.

(*4*) In the event of any difference of opinion among the members of the Board or a Regional Board, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairman shall prevail.

16. *Publication of award.*—The award of the Board or a Regional Board, together with any minute of dissent recorded therewith, shall be published by the appropriate Government in such manner as it thinks fit within a period of fifteen days from the date of its receipt.

17. *Commencement of award.*—(*1*) The award shall be enforceable on the expiry of sixty days from the date of its publication under section 16.

(*2*) The award shall come into operation with effect from such date as may be specified therein, and where no such date is so specified, it shall come into operation on the date on which the award becomes enforceable under sub-section (*1*).

18. *Period of operation of awards.*—(*1*) An interim award shall remain in operation until the final award becomes enforceable.

(*2*) A final award shall, subject to the provisions of this section, remain in operation for a period of one year :

Provided that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period, not exceeding one year at a time, as it thinks fit, so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(*3*) Notwithstanding the expiry of the period of operation of an award under sub-section (*2*), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(*4*) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since it was made there has been a material change in the circumstances on which the award was based, it may refer the award or a part of it to the Board or a Regional Board for decision whether the period of operation should not, by

reason of such change, be shortened, and the decision of the Board or the Regional Board, as the case may be, on such reference shall, subject to the provision for appeal, be final.

(5) In the computation of the period of operation of any award, the period during which the implementation of the award is stayed by the Appellate Tribunal shall be excluded.

19. *Persons on whom awards are binding.*—An award of the Board or a Regional Board shall be binding on,—

(a) all the employers of the class of establishments in the local area to which the proceedings relate, whether they were such employers at the time of making the award or subsequently became such employers in that local area; and

(b) all the employees to which the proceedings relate, whether they were employed at the time of making the award or subsequently became so employed.

20. *Certain powers of Boards and Regional Boards.*—(1) The Board or a Regional Board shall have the same powers as are vested in a civil court when trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) issuing commissions for the examination of witnesses;

(d) any other matter which may be prescribed.

(2) The Board or a Regional Board may, if it so thinks fit, appoint one or more persons as assessors to advise it in any proceeding before it.

(3) Subject to the rules made under this Act, the costs of, and incidental to, any proceeding before the Board or a Regional Board shall be in the discretion of that Board or Regional Board, and such Board or Regional Board shall have full power to determine by whom and subject to what conditions, if any, such costs are to be paid and to give all necessary directions for the purposes aforesaid and the costs may be recovered in the manner provided for in section 45.

(4) The Board or a Regional Board shall be deemed to be a civil court for purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898); and any proceeding before such Board or Regional Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

21. *Temporary association of persons with Boards and Regional Boards.*—(1) The Board or a Regional Board may associate with itself in such manner and for such purposes as may be prescribed any person whose assistance or advice it may desire in discharging its functions under this Act.

(2) A person associated with the Board or a Regional Board under sub-section (1) for any purpose shall have the right to take part in the discussions of the Board or Regional Board and shall offer such expert assistance as the Board or the Regional Board may require.

22. *Procedure before Board or Regional Board.*—The Board or a Regional Board shall follow such procedure as may be prescribed, and until such rules are made, the Board may, subject to such directions as may be given by the Appellate Tribunal, by order, regulate its practice and procedure and that of Regional Boards.

23. *Right of appropriate Government to appear in any proceeding.*—The appropriate Government may appear in any proceeding before the Board or a Regional Board whether or not it is a party to such proceeding and, thereupon, shall have the right to be heard as if it were a party to such proceeding.

24. *Representation of parties.*—(*1*) An employee shall be entitled to be represented in any proceeding under this Act,—

(*a*) where there is a certified bargaining agent, by such bargaining agent;

(*b*) where there is no certified bargaining agent but there is a trade union of the employees,—

(*i*) by an officer of a registered trade union of which he is a member;

(*ii*) by an officer of a federation of trade unions to which the trade union referred to in clause (*i*) is affiliated;

(*c*) where there is no certified bargaining agent or any trade union, by any other employee employed in the same establishment and authorised in the prescribed manner.

(*2*) An employer shall be entitled to be represented in any proceeding under this Act,—

(*a*) by an officer of an association of employers of which he is a member;

(*b*) by an officer of a federation of associations of employers to which the association referred to in clause (*a*) is affiliated;

(*c*) where there is no such association of employers, by any other employer in the same class of establishments and authorised in the prescribed manner.

(*3*) A party to a proceeding under this Act may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Board or Regional Board, as the case may be.

25. *Board to exercise superintendence over Regional Boards.*—(*1*) The Board shall exercise superintendence over all Regional Boards, and, in particular, may,—

(*a*) co-ordinate the activities of such Regional Boards;

(*b*) issue general instructions to be followed by such Regional Boards;

(*c*) call for returns;

(*d*) regulate the practice and procedure of such Regional Boards;

(*e*) prescribe forms in which books and entries shall be kept by the officers of such Regional Boards;

(*f*) settle a table of fees payable for processes issued by such Regional Boards,

(2) Nothing in sub-section (1) shall be construed as giving to the Board any jurisdiction to question any award of any Regional Board.

26. *Power to withdraw and transfer references.*—The appropriate Government may, by order in writing, and for reasons to be stated therein, at any stage,—

(a) withdraw any reference made to the Board or any Regional Board and direct that no further proceedings be taken in respect of such reference, or

(b) transfer any reference pending from one Regional Board to another, and the Regional Board to which the reference is so transferred may proceed either *de novo* or from the stage at which it was transferred.

27. *Commencement and conclusion of proceedings before the Board or Regional Board.*—Any proceeding before the Board or a Regional Board shall be deemed to have commenced on the date on which the order of reference under section 14 is made and shall be deemed to have concluded,—

(a) on the date on which the award becomes enforceable under section 17, or

(b) on the date on which the reference under section 14 is withdrawn under section 26.

CHAPTER IV

Principles for Determination of Fair Wages

28. *Principles of determination of fair rates of wages.*—(1) Where any reference is made under section 14 to the Board or a Regional Board for fixing fair rates of wages in respect of employees in any class of establishments, the Board or Regional Board, as the case may be, shall ascertain the minimum rates of wages payable to such employees and the minimum rates so ascertained shall ensure such wages to an employee as may enable him to provide a standard family with food, shelter and clothing and also medical expenses and education of children appropriate to his station in life.

(2) In determining the fair rates of wages in respect of such employees, the Board or a Regional Board, as the case may be, shall consider all the circumstances of the case and, in particular, shall take the following factors into account, namely:—

(a) the minimum rates of wages payable to such employees;

(b) productivity of such employees;

(c) the prevailing rates of wages for performing similar work in any other class or classes of establishments in the local area;

(d) the competitive position in the international market of the class of establishments to which the proceedings relate;

(e) the wage-paying capacity of such class of establishments:

Provided that the fair rates of wages for such employees shall not be less than the minimum rates of wages payable to them, and, subject thereto, shall not exceed the wage-paying capacity of such class of establishments:

Provided further that where the Board or a Regional Board, as the case may be, is of opinion that the fair rates of wages determined under this section

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exceed the wage-paying capacity of an establishment for any special reasons not connected with the mismanagement thereof, the Board or the Regional Board, as the case may be, may fix lower rates of wages for employees employed in that establishment.

(3) For the purpose of determining the wage-paying capacity of a class of establishments, the Board or a Regional Board, as the case may be, shall take into consideration the capacity of all such establishments which, in the opinion of that Board or Regional Board, fairly represent that class of establishments in the local area.

(4) In determining the wage-paying capacity under sub-section (3), the Board or a Regional Board, as the case may be, shall ensure that production of the class of establishments to which the proceedings relate is maintained with efficiency and due allowance is made for a fair return on capital, remuneration to management, and a fair allocation to reserves and depreciation funds so as to keep that class of establishments in an economically sound condition.

(5) A fair rate of wages for any class of employees shall be related to a fair load of work which that class of employees is expected to do, and if an employee belonging to that class does not turn out a fair load of work, the wages payable to that employee shall bear the same proportion to the fair rate of wages as the work done by him bears to the fair load of work, and in order to determine the productivity of employees and whether a fair load of work is being turned out by an employee, the Board or a Regional Board, as the case may be, may institute time and motion studies in such manner as may be prescribed.

29. *Components of fair rates of wages.*—Any fair rate of wages fixed under this Act may consist of a basic rate of wages and a cost of living allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number.

Explanation.—For the purposes of this section "cost of living allowance" means a special allowance given to an employee for the purpose of compensating him for an increase in the cost of living.

30. *Basic rate of fair wages.*—(1) Where any reference is made under section 14 to the Board or a Regional Board for fixing fair rates of wages in respect of employees of any class of establishments, such Board or Regional Board, as the case may be, may classify the employees into such classes as they may deem fit and proceed to determine the basic rate of fair wages for each such class of employees in accordance with the principles laid down in section 28.

(2) The basic rate of fair wages for any class of employees shall be so fixed that the same rate, except as provided in the second proviso to sub-section (2) of section 28, may be made applicable to all the establishments of the same class in the local area.

(3) The basic rate of fair wages shall be fixed with reference to a cost of living index number of 185 to 200 treating the cost of living index number of 1939 as 100:

Provided that where the Central Government, in consultation with the State Governments, ascertains and declares the index number applicable to any class of employees, the basic rate of fair wages for such employees shall be fixed with reference to such cost of living index number.

31. *Cost of living allowance.*—The cost of living allowance, which is to be paid in addition to the basic rate of wages, shall be computed in such manner and on such graduated scales as the appropriate Government may from time to time direct:

Provided that in the case of employees whose basic rate of wages does not exceed thirty-five rupees per month, the rate of cost of living allowance shall be so computed as to compensate such employees to the extent of one hundred per cent for the increase in the cost of living.

32. *Statutory and non-statutory benefits.*—In determining fair rates of wages for any class of employees, the Board or a Regional Board, as the case may be, may make due allowance for any benefit, statutory or otherwise, which goes to reduce the expenses of such employees on items of expenditure which may be taken into account in the calculation of fair rates of wages for such class of employees.

33. *Different rates for time-work, piece-work and over-time work.*—The Board or a Regional Board may fix,—

(*a*) a fair rate of wages for time-work (hereinafter referred to as time-rate);

(*b*) a fair rate of wages for piece-work (hereinafter referred to as piece-rate);

(*c*) a fair rate of wages to apply in respect of over-time work done by employees (hereinafter referred to as over-time rate):

Provided that where any over-time rate has been fixed under any law applicable to any class of employees, the fair rates of wages in respect of over-time work for such employees shall be fixed in accordance therewith.

34. *Different rates for different classes of establishments, etc.*—In fixing fair rates of wages under this Act, different fair rates of wages may be fixed for,—

(*a*) different classes of establishments;

(*b*) different classes of employees in the same establishment;

(*c*) different local areas;

(*d*) different wage periods:

Provided that where any wage periods have been fixed under section 4 of the Payment of Wages Act, 1936 (IV of 1936), fair rates of wages shall be fixed in accordance therewith.

35. *Different rates of wages for different classes of employees.*—In fixing different rates of wages for different classes of employees, the Board or a Regional Board, as the case may be, may take the following factors into consideration, namely:—

(*a*) the degree of skill required for doing the work;

(*b*) the strain and the fatigue involved in doing the work;

(*c*) the training and experience required for doing the work;

(*d*) the responsibility to be undertaken;

(*e*) the mental and physical requirements for doing the work;

(*f*) the disagreeableness of the task;

(*g*) the hazard attendant on the work.

36. *Wages for men and women.*—Men and women shall receive equal pay for employment on piece-rates or for equal work done:

Provided that where women are employed in work done exclusively by them or where the women are less efficient than men, such women may be paid wages at a rate lower than that of men and in such a case, the standard family shall be deemed to consist of such number of adult consumption units, not exceeding three, as the Board may, subject to any directions of the Appellate Tribunal in this behalf, deem fit.

37. *Overtime.*—Where an employee, whose time-rate is fixed under this Act, works on any day for a period in excess of the number of hours constituting a normal working day, the employee shall be paid such overtime rate for the excess work done as may be fixed in this behalf.

38. *Wages of employees who work for less than normal working day.*—Where an employer neglects or fails to provide an employee with full work for a normal working day, the employee shall be entitled to receive wages in respect of the work done by him as if he had worked for a full normal working day.

39. *Revision of fair rates of wages fixed under this Act.*—Where the appropriate Government is of opinion that since the award fixing fair rates of wages was made, there has been a material change in the circumstances on which the award was based, the appropriate Government may refer the award or a part of it to the Board or a Regional Board, for revision of the rates of wages, and such Board or Regional Board, as the case may be, shall submit a fresh award making such changes, if any, in the original award as it deems fit and the provisions of this Act shall, as far as may be, apply in relation to a reference made under this section as they apply in relation to a reference made under section 14.

CHAPTER V

Appeals, Enforcement of Awards and Penalties

40. *Appeal.*—(*1*) Any party aggrieved by an award of the Board or a Regional Board may, within thirty days from the date on which such award becomes enforceable under section 17, prefer an appeal to the Appellate Tribunal:

Provided that the appropriate Government or the Central Government, where it is not the appropriate Government may, whether or not such Government is a party to the award, prefer such appeal to the Appellate Tribunal:

Provided further that the Appellate Tribunal may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) Where an appeal is preferred under sub-section (*1*), the Appellate Tribunal shall determine the appeal as if it were an appeal preferred against the award of a Labour Tribunal under the Labour Relations Act, 1950 and the provisions of the said Act shall apply accordingly and the Appellate Tribunal shall have and exercise, in accordance with the same procedure, the same jurisdiction, power and authority, over all Boards and Regional Boards as the Appellate Tribunal has and exercises over all Labour Tribunals under the Labour Relations Act, 1950.

41. *Payment of fair wages by employers.*—(*1*) Where in respect of any class of employees, a fair rate of wages has been fixed under this Act, the employer shall pay to every employee of such class wages at a rate not less than the rate of wages so fixed.

(*2*) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (IV of 1936).

42. *Maintenance of registers and records.*—(*1*) Every employer of the establishment to which this Act applies shall, in such form and manner as may be prescribed, maintain such registers, records or notices, showing the employees employed by him, the work performed by them, the wages paid to them, the receipts given by them and such other particulars as may be prescribed.

(*2*) The appropriate Government may, by rules made under this Act, provide for the issue of wage books or wage slips to employees employed in any establishment to which this Act applies and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

43. *Inspectors.*—(*1*) The appropriate Government may, by notification in the Official Gazette, *appoint a Chief Inspector and as many Inspectors* as may be necessary for the purpose of inspecting the establishments to which this Act applies and may define the local limits within which an Inspector shall exercise his functions.

(*2*) Subject to any rules made under this Act, an Inspector may, within the local limits for which he is appointed,—

(*a*) enter, with such assistants, if any, as he thinks fit, any premises or place where employees are employed in any establishment to which this Act applies or where relevant registers, records or notices may be kept for the purpose of examining any register, record or notice, required to be maintained by or under this Act;

(*b*) require the production of any register or record for inspection;

(*c*) examine any employee employed in any establishment to which this Act applies;

(*d*) require any person to give any information, which it is in his power to give, with respect to the payments made for the work of the employees;

(*e*) take copies of any register or record of wages or notices or any portion thereof; and

(*f*) exercise such other powers as may be prescribed.

(*3*) Every Inspector shall submit to the appropriate Government such report as that Government may require.

44. *Claims.*—(*1*) The appropriate Government may, by notification in the Official Gazette, *appoint any commissioner for workmen's compensation,* any judge of a civil court, any magistrate or the presiding officer of any Labour Court constituted under the Labour Relations Act, 1950, to be the authority to hear and decide for any specified area all claims arising out of payment of less than the fair rates of wages to employees employed or paid in that area.

(*2*) Where an employee is paid less than the fair rates of wages fixed for his class of establishment under this Act, the employee or any Inspector

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appointed under section 43 may, within six months from the date on which the wages became payable, apply to such authority for a direction under sub-section (*3*):

Provided that the authority may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(*3*) Where any application under sub-section (*2*) is entertained, the authority may, after giving an opportunity to the applicant and the employer of being heard, and after such further inquiry, if any, as it may consider necessary, direct without prejudice to any other penalty to which the employer may be liable under this Act, the payment to the employee of the amount by which the fair rates of wages payable to him exceed the amount actually paid, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount of the excess.

(*4*) If the authority hearing any application under this section is satisfied that the application was either malicious or vexatious, it may direct that a penalty not exceeding one hundred rupees be paid to the employer by the person presenting the application.

(*5*) Every direction of the authority under this section shall be final.

(*6*) Every authority appointed under sub-section (*1*) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of taking evidence and of enforcing attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

45. *Recovery of money.*—Any amount directed to be paid under section 44 or any money recoverable under any other provision of this Act may be recovered,—

(*a*) if the amount is directed to be paid under section 44 by a magistrate, as if it were a fine imposed by such magistrate, or

(*b*) in any other case, as arrears of land revenue or as public demand by the appropriate Government on an application made to it by the persons entitled to the money.

46. *Penalty for breach of terms of award.*—Any employer who pays to an employee less than the amount due to him under the provisions of this Act or in any way commits a breach of any term of an award which is binding on him shall be punishable with fine, and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid by way of compensation to any person who in its opinion, has been injured by such breach.

47. *Penalty for failure to maintain register and records.*—Any employer who fails to maintain a register or record required to be maintained under section 42 shall be punishable with fine.

48. *Penalty for other offences.*—Any person who contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to five hundred rupees.

49. *Offence by Company, etc.*—Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

CHAPTER VI

MISCELLANEOUS

50. *Effect of constitution of Wages Board on the jurisdiction of Labour Tribunals and other authorities.*—On and after the constitution of the Board under this Act, no Labour Tribunal or other authority shall have jurisdiction to entertain any matter which is capable of being referred under section 14 to that Board or a Regional Board, and all proceedings in respect of any such matter which, immediately before the constitution of the Board, were pending before any Labour Tribunal or other authority, shall stand transferred to that Board.

51. *Awards of Boards and Regional Boards to be final.*—The award of the Board or a Regional Board fixing fair rates of wages shall, subject to the provisions of this Act, be final and shall not be questioned in any proceeding under any other law for the time being in force and shall have effect notwithstanding anything inconsistent therewith contained in any award of any Labour Tribunal.

52. *Restrictions of strikes and lock-outs.*—(*1*) No employee shall give any notice of strike or go on strike and no employer shall give any notice of lock-out or declare a lock-out in pursuance of any dispute arising out of any matter referred to the Board or a Regional Board,—

(*a*) during the pendency of any proceeding before the Board, Regional Board, or the Appellate Tribunal, or

(*b*) during any period in which the award is in operation.

(*2*) A strike or lock-out shall be illegal if it is commenced, declared or continued in contravention of sub-section (*1*).

53. *Failure to turn out fair load of work to be good cause for dismissal.*—Where an employee fails or refuses, after due warning, to turn out a fair load of work, such failure or refusal shall be deemed to be a good cause for the dismissal of that employee.

54. *Contracting out.*—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a fair rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the fair rate of wages fixed under this Act:

Provided that nothing in this section shall apply to any written contract or agreement entered into between an employer on the one hand and a representative trade union or, where there is no such trade union, the representative of the employees chosen in the prescribed manner, on the other hand.

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Explanation.—For the purposes of this section, a trade union shall not be deemed to be representative or the employees shall not be deemed to be represented unless the trade union or the representatives represent not less than thirty per cent of the employees.

55. *Certain persons to be public servants.*—All the members of Boards and Regional Boards, all the persons appointed as the Authority and all Inspectors appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

56. *Cognizance of offences by courts.*—(*1*) No court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government or by an officer empowered in this behalf by such Government, by general or special order.

(*2*) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

57. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

58. *Power to exempt.*—(*1*) The appropriate Government may, by notification in the Official Gazette, exempt any establishment or class of establishments or all or any class of employees employed in any establishment, to which this Act applies from the operation of the provisions of this Act.

(*2*) Nothing in this Act shall apply to wages payable by an employer to a member of his family who is living with him and is dependent on him.

Explanation.—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

59. *Act to apply to scheduled employments in the Minimum Wages Act in certain cases.*—Where any establishment to which this Act applies is a scheduled employment within the meaning of clause (*g*) of section 2 of the Minimum Wages Act, 1948 (XI of 1948) and which has not been exempted under section 58 from the operation of this Act, the provisions of this Act shall, and those of the Minimum Wages Act, 1948 shall not, apply to such establishment.

60. *Bar of jurisdiction.*—No civil court shall have jurisdiction in respect of any matter which the Board or a Regional Board is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

61. *Delegation of power.*—The appropriate Government may, by general or special order, direct that the powers exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by an officer subordinate to that Government.

62. *Power to give directions.*—The Central Government may give directions to the State Governments as to carrying into execution the provisions of this Act.

63. *Power of appropriate Government to make rules.*—(1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which representatives of employers and employees may be chosen in the Board or Regional Boards;

(*b*) the qualifications for appointment as chairman of a Regional Board;

(*c*) quorum for the functioning of the Board or Regional Boards;

(*d*) conditions of appointment and service and the scales of pay of officers and servants of the Boards;

(*e*) the form of notice and manner of service of notice under this Act;

(*f*) the manner in which record of proceedings may be maintained by the Board or a Regional Board;

(*g*) the manner in which the award of the Board or a Regional Board may be published;

(*h*) the forms to be used and the registers to be maintained under this Act;

(*i*) the powers vested in a civil court which may be exercised by the Board or a Regional Board;

(*j*) the procedure to be followed by the Board or a Regional Board in respect of proceedings before it;

(*k*) the regulation of the scales of the costs that may be allowed in proceedings before the Board or a Regional Board;

(*l*) the purpose for which and the manner in which persons may be temporarily associated with the Board or a Regional Board;

(*m*) the manner in which employers and employees may be represented in the proceedings before the Board or a Regional Board;

(*n*) the manner in which minimum rates of wages may be calculated;

(*o*) the manner in which the wage-paying capacity of a class of establishments and the prevailing rates of wages may be calculated;

(*p*) the manner of calculating cost of living allowance;

(*q*) the manner of calculating any unascertained sum of money or other benefits due to the employees;

(*r*) the powers and duties of Inspectors appointed under this Act;

(*s*) issue of wage books and wage slips and the manner of making and authenticating entries in wage books and wage slips;

(*t*) the levy and collection of court-fees in respect of an application or appeal made, under this Act, the levy and collection of process fees in respect of service of summons and notices, and the levy and collection of fees in respect of supply of a certified or other copy of any notice or award or decision given under this Act;

(*u*) any other matter which has to be, or may be, prescribed under this Act.

64. *Power of Central Government to make regulations.*—(*1*) The Central Government may, by notification in the Official Gazette, make regulations to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters specified in sub-section (*2*) of section 63.

(*3*) If any rule made under rule 63 is repugnant to any regulation made under this section, the regulation made under this section, whether before or after the making of the rule under section 63, shall prevail, and the rule made under section 63 shall, to the extent of the repugnancy, be inoperative.

STATEMENT OF OBJECTS AND REASONS

The Industrial Truce Resolution of 1947 laid down that in devising a system of remuneration to capital as well as labour, adequate provision must be made, *inter alia*, for payment of fair wages to labour. Government accepted that Resolution in their Statement on Industrial Policy, dated the 6th April 1948 and announced their intention to set up suitable machinery for its implementation. Accordingly, a Central Advisory Council was established, consisting of representatives of Central and Provincial Governments, of employers and of employees to examine the various problems arising out of the Industrial Truce Resolution. That Council was assisted in its study of the subject of fair wages by a tripartite committee which submitted a unanimous report.

2. The Fair Wages Bill which has been drafted on the basis of the report of the Committee on Fair Wages is the first step in the realisation of labour's dreams of a living wage which has been vouchsafed to it by the Constitution. The ultimate expectations have, however, to be tempered with immediate possibilities and hence the emphasis that the Bill places on the limit to fair wages being set by the capacity of industry to pay. It has, however, equally clearly been laid down that an employer to whom the provisions of the Bill apply shall in no circumstances pay his employees a wage less than the minimum wage described therein, irrespective of the capacity of the industry or the unit. The fair wage contemplated in the Bill will, so long as the cost of living index number exceeds a slab of 185 to 200 (the cost of living index number of 1939 being taken as 100), consist of a basic rate and a cost of living allowance, the latter to be adjusted according to such graduated scales as may, from time to time, be prescribed by the appropriate Government. There are also provisions in the Bill relating to the fixation of wage differentials, the calculation of over-time, the principle of equal pay for equal work and the revision of fair rates of wages from time to time.

3. It must, however, be mentioned that the principles for the determination of fair wages mentioned in Chapter IV of the Bill are, by the very nature of the concepts therein embodied, not always susceptible of exact or meticulous definition and are, therefore, more in the nature of directive and suggestive principles to be borne in mind by the wage-fixing machinery than as exact definitions complete in themselves and capable of immediate translation into final decisions. And yet, Government feel that it is an advantage to include them in the legislation both as an indication of the lines on which the various wage-fixing bodies should approach this vital and complex problem and as a guide which will facilitate co-ordination and the maintenance of uniform standards throughout the country.

4. The machinery contemplated for the fixation of fair wages is largely on familiar lines—tripartite Wages Boards co-ordinated by an All-India Appellate Body. The technical aspects of the working of Wages Boards, for example, publication, commencement and period of operation of awards and similar matters, are on the lines provided for in the Labour Relations Bill. The Act applies in the first instance to factories and mines, but is capable of extension by notification to other classes of establishments where a manufacturing or mining process is carried on.

5. The Fair Wages Bill, in its present form, is undoubtedly a novel experiment in the field of wage regulation, for it is not often that enactments of this kind provide for anything more than a bare machinery for fixation of wages. If then, Government have tried to include in the Bill something more than is usual or conventional, it is because they have tried to give expression, inadequately perhaps, to the hopes and aspirations of a class of wage-earners who occupy a strategic position in the economy of the country.

JAGJIVAN RAM.

NEW DELHI;
The 4th August, 1950.

FAIR WAGES BILL, 1950

FINANCIAL MEMORANDUM

The Fair Wages Bill contemplates the setting up of the following bodies :—

(1) Wages Boards, and

(2) Regional Wages Boards.

2. The Wages Boards to be set up under clause 4 of the Bill, will consist of two members to represent the interests of employers, two to represent the interests of employees and a Chairman to be appointed by the "appropriate Government" from among the Chairmen of the Labour Tribunals. Clause 7 of the Bill provides for the constitution of Regional Wages Boards for any local area. Each Regional Board will consist of two members to represent the interests of employers, two to represent the interests of employees and a Chairman to be appointed by the "appropriate Government" who shall be an independent person not connected with either employers' or employees' interests. The Wages Board is primarily a co-ordinating authority and may be expected to meet say four or six times a year for a few days each time.

3. So far as the Central Government is concerned, it is proposed to set up a Wages Board and it may be necessary to constitute four Regional Wages Boards for establishments in the "Central Sphere". The work of the Chairman of the Central Board will initially be entrusted to one of the Chairmen of the Central Government's Standing Industrial Tribunals at Calcutta or Dhanbad. It is not proposed to allow any extra remuneration to the Chairman of the Tribunal appointed for this work. Provision has, however, been made in the estimates for the appointment of a whole-time Chairman on a pay of Rs. 2,000 per mensem. The other four members of the Board may be paid a fee

of Rs. 40 each for each sitting of the Board, in addition to travelling and daily allowances as for a Central Government Officer of the first grade. On the assumption that there will be 30 sittings in one year, the expenditure on account of pay of Chairman, fees, etc., to members will be as follows :—

	Per Year.
	Rs.
Chairman	24,000
Fees to Members (for 30 days) ..	4,800
Travelling Allowance and Daily Allowance	11,250
Total ..	40,050

4. For the work relating to the Wages Board, the following staff will be required in addition to the existing staff of the Tribunal at Dhanbad or Calcutta which cost about Rs. 14,000 per annum :—

One Research Officer (Rs. 350—25—500—EB—30—650—EB—30—800) One Upper Division Clerk (Rs. 80—5—120—EB—8—200—10/2—220) Two Lower Division Clerks (one will be a stenotypist getting an additional allowance of Rs. 20 per mensem.) (Rs. 55—3—85—EB—4—125—5—130) Two Peons	Rs. 14,500 (including allowances.)

5. Provision will also be necessary for payment of fees to persons temporarily associated with the Board under clause 21 of the Bill and to assessors under clause 20 at the same rate as for Members of the Board. Their fees and other contingent expenditure connected with the functioning of the Board may be roughly estimated at Rs. 13,000 per annum.

6. The total annual expenditure of the Wages Board may, therefore, be estimated at Rs. 81,550.

7. For Regional Wages Boards also it will be necessary to have a whole-time Chairman and to pay the four Members fee at the same rate (Rs. 40 a day) as for the Members of the Central Wages Board. The expenditure on this account, on the presumption that each Regional Board will have 15 sittings in a year, will come to,—

	Rs.
Pay of Chairman	18,000
Fees to the Members	2,400
Travelling allowance for the Members	11,250

The expenditure on staff for each Regional Board for a period of one year will be as follows :—

Staff for one Regional Board—

One Research Officer (Rs. 350—800) One Stenographer (Rs. 80—220) One Upper Division Clerk (Rs. 80—220) Two Lower Division Clerks (Rs. 55—130) Three Peons	Rs. 16,000 (including allowances).

Expenditure on other items as detailed in para 5 above, may be estimated at about Rs. 9,000 per annum.

The total expenditure for one Regional Board will thus be Rs. 56,650 per annum and for four such Boards Rs. 2,26,600.

8. Clause 43 of the Bill provides for the appointment of a Chief Inspector and Inspectors for the purpose of inspecting establishments to see whether the provisions of this Bill are properly observed. It is the intention to entrust this work to the officers of the Central Industrial Relations Machinery and so no additional expenditure on this account is anticipated immediately. But a sum of Rs. 20,000 has been included in the estimate in case whole-time staff if found necessary.

9. The total annual recurring expenditure to be incurred by the Central Government as a result of the Fair Wages Bill will be about Rs. 3.3 lakhs. The attached statement gives an abstract of the expenditure.

10. In addition to the expenditure mentioned above State Governments will incur expenditure on Wages Boards and Regional Wages Boards on the lines mentioned above. While each State will have only one Wages Board, the number of Regional Wages Boards to be set up will vary from State to State depending on the number and types of factories and mines to be covered. It is, therefore, difficult to estimate the expenditure to be borne by the States. Assuming, however, that each State will be meeting expenditure more or less to the same extent as the Central Government, the total expenditure for all State Governments may be estimated at about Rs. 50 lakhs taking into account the fact that the scales of pay in States are generally lower than those at the Centre. The total expenditure, Central and State, will amount to Rs. 53 lakhs. Substantial reduction in this expenditure is, however, possible by (i) utilising the existing industrial tribunals in the country; and (ii) by securing the services of members of the Boards without payment of fees.

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ABSTRACT OF EXPENDITURE

		Per Annum.
		Rs.
Pay of Chairman		24,000
Fees for 4 members (for 30 days at Rs. 40 per day)		4,800
T.A., etc.		11,250
Staff—		
Research Officers, etc.	7,500	
Allowances	7,000	
Contingencies	3,000	
Rent, Furniture	2,000	
	19,500	19,500
Allowance for Assessors, Committee Members (Lumpsum)		8,000
Cost of present staff of the Calcutta or Dhanbad Tribunal		14,000
		81,550

Regional Boards—4

Pay of Chairman	18,000
Fees for 4 members (for 15 days at Rs. 40 per day)	2,400
Travelling Allowances, etc.	11,250
Allowances to Committees, Assessors, etc.	4,000
Staff (as proposed)	16,000
Contingencies, Rent, etc.	5,000
Cost of 1 Regional Board	56,650
Cost of 4 Regional Boards	2,26,600
Inspectors (lumpsum)	20,000
Cost to Central Government:	
Wages Board	81,600
Four Regional Wages Boards	2,26,600
Inspection Staff	20,000
	3,28,150

or Rs. 3.3 lakhs.

STATES

	Rs.
16 Wages Boards	13,20,000
64 Regional Boards	39,36,000
	52,56,000
Deductions for lower scales of pay, allowances, etc. ..	—2,56,000
Total cost Rs. : .	50,00,000 (50 lakhs)

Total Expenditure—

Central Government	Rs. 3.3 lakhs
State Governments	Rs. 50.0 lakhs
	Rs. 53.3 lakhs per annum.

The following Bills were introduced in Parliament on the 11th August, 1950 :—

BILL NO. 59 OF 1950.

A Bill to amend the Influx from Pakistan (Control) Act, 1949.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Influx from Pakistan (Control) Amendment Act, 1950.

2. *Amendment of section 1, Act XXIII of 1949.*—In sub-section (*2*) of section 1 of the Influx from Pakistan (Control) Act, 1949 (hereinafter referred to as the said Act), the words "except the State of Hyderabad" shall be omitted.

3. *Amendment of section 2, Act XXIII of 1949.*—Clause (*d*) of section 2 of the said Act shall be omitted.

4. *Insertion of new section 5A in Act XXIII of 1949.*—After section 5 of the said Act, the following section shall be inserted, namely :—

"5A. *Place of trial of offences.*—An offence punishable under this Act may be tried by a court within the local limits of whose jurisdiction the offence was committed or the accused person may be found."

5. *Repeal of Ordinance XXII of 1950.*—(*1*) The Influx from Pakistan (Control) Amendment Ordinance, 1950 (XXII of 1950) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

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STATEMENT OF OBJECTS AND REASONS

The Influx from Pakistan (Control) Act, 1949, extends to the whole of India, except the State of Hyderabad. As there is no parallel legislation in Hyderabad, State authorities were experiencing great difficulties in dealing with persons, who infiltrated into the State without permits or having entered lawfully, contravened the provisions of any of the rules framed under the Act. It became, therefore, necessary to extend the Act to Hyderabad. The Influx from Pakistan (Control) Amendment Ordinance, 1950, was promulgated on the 24th July, 1950 to achieve this object. The present Bill seeks to replace the Ordinance by an Act of Parliament.

Under the Act offences could be tried only by courts within the local limits of whose jurisdiction the offence was committed. This has created great difficulties. The present Bill seeks to remove the difficulty by making a provision that the offences punishable under the Act may be tried not only at the place where the offence was committed but also at the place where the accused person may be found.

A. P. JAIN.

NEW DELHI;
The 31st July, 1950.

The following Bills were introduced in Parliament on the 12th August, 1950:—

BILL* No. 61 OF 1950

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March, 1951.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Appropriation (No. 3) Act, 1950.

2. *Issue of Rs. 15,27,60,000 out of the Consolidated Fund of India for the year 1950-51.*—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of fifteen crores, twenty-seven lakhs and sixty thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1951, in respect of the services specified in column 2 of the Schedule.

3. *Appropriation.*—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for

*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1951.

SCHEDULE

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament Rs.	Charged on the Consolidated Fund Rs.	Total Rs.
8	Indian Posts and Telegraphs Department (including Working Expenses)	25,00,000	..	25,00,000
9	Cabinet	77,000	..	77,000
11	Ministry of Home Affairs	1,83,000	..	1,83,000
109A	Transfer to Contingency Fund of India	15,00,00,000	..	15,00,00,000
	GRAND TOTAL ..	15,27,60,000	..	15,27,60,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the Supplementary expenditure charged on the Consolidated Fund and the grants made by Parliament for expenditure of the Central Government, excluding Railways, for 1950-51.

C. D. DESHMUKH.

NEW DELHI;

The 2nd August, 1950

BILL No. 62 OF 1950

A Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Essential Supplies (Temporary Powers) Amendment Act, 1950.

2. *Omission of preamble, Act XXIV of 1946.*—The preamble to the Essential Supplies (Temporary Powers) Act, 1946 (hereinafter referred to as the said Act), shall be omitted.

3. *Amendment of section 1, Act XXIV of 1946.*—In section 1 of the said Act,—

(*a*) for sub-section (*2*), the following sub-section shall be substituted, namely :—

"(*2*) It extends to the whole of India except the State of Jammu and Kashmir, but shall come into force in a Part B State to which this Act extends only on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different Part B States";

(*b*) in sub-section (*3*), for the figures "1951", the figures "1954" shall be substituted.

4. *Amendment of section 2, Act XXIV of 1946.*—In section 2 of the said Act,—

(*a*) after item (*i*) of clause (*a*), the following item shall be inserted, namely :—

"(*ia*) cattle fodder";

(*b*) after clause (*c*), the following clause shall be inserted, namely :—

'(*cc*) "cattle fodder" includes oil-cakes and other concentrates;'.

5. *Insertion of new section 2A in Act XXIV of 1946.*—After section 2 of the said Act, the following section shall be inserted, namely :—

"2A. *Rule of construction respecting enactments not extending to Part B States.*—Any reference to the Indian Penal Code (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898), or the Indian Evidence Act, 1872 (I of 1872), shall, in relation to any Part B State to which this Act applies, be construed as a reference to the corresponding enactment in force in that State."

6. *Amendment of section 3, Act XXIV of 1946.*—For sub-section (*3*) of section 3 of the said Act, the following sub-section shall be substituted, namely :—

"(*3*) An order made under sub-section (*1*) may confer powers and impose duties upon the Central Government or the State Government or officers and authorities of the Central or State Government and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties."

7. *Substitution of new section for section 7, Act XXIV of 1946.*—For section 7 of the said Act, the following section shall be substituted, namely :—

"7. *Penalties.*—(*1*) If any person contravenes any order under section 3 relating to cotton textiles, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine; and any property in respect of which the order has been contravened or such part thereof as to the Court may seem fit shall be forfeited to the Government.

(2) If any person contravenes any order under section 3 relating to foodstuffs,—

(a) he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine, unless for reasons to be recorded, the court is of opinion that a sentence of fine only will meet the ends of justice; and

(b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government, unless for reasons to be recorded the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property:

Provided that where the contravention is of an order prescribing the maximum quantity of any foodgrain that may lawfully be possessed by any person or class of persons, and the person contravening the order is found to have been in possession of foodgrain exceeding twice the maximum quantity so prescribed, the court shall—

(a) sentence him to imprisonment for a term which may extend to seven years and to a fine not less than twenty times the value of the foodgrain found in his possession, and

(b) direct that the whole of such foodgrain shall be forfeited to the Government.

(3) If any person contravenes any order under section 3 relating to any essential commodity other than cotton textiles and food stuffs, he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both, and if the order so provides, any property in respect of which the court is satisfied that the order has been contravened may be forfeited to the Government.

(4) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

8. *Amendment of section 7A, Act XXIV of 1946.*—In section 7A of the said Act, the words, brackets and figure "sub-section (1) of" shall be omitted.

9. *Insertion of new sections 13A and 13B in Act XXIV of 1946.*—After section 13 of the said Act, the following sections shall be inserted, namely:—

"13A. *Special provisions regarding bail.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no person accused or convicted of a contravention of any order under section 3 relating to food grains which is punishable under the proviso to sub-section (2) of section 7 shall, if in custody, be released on bail or on his own bond unless,—

(a) the prosecution has been given an opportunity to oppose the application for such release, and

(b) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such contravention.

13B. *Cases to be disposed of expeditiously.*—Where any offence is not being tried in a summary way under section 12 of this Act,—

(*a*) sub-section (*1*) of section 256 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if the words "at the commencement of the next hearing of the case or, if the Magistrate, for reasons to be recorded in writing, so thinks fit," had been omitted; and

(*b*) the hearing of the case shall be continued from day to day unless the court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded."

10. *Amendment of section 17, Act XXIV of 1946.*—After sub-section (*3*) of section 17 of the said Act, the following sub-section shall be inserted, namely:—

"(*4*) If immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law which corresponds to this Act, such corresponding law shall on that day stand repealed:

Provided that any order made and in force immediately before that day in the said State shall continue in force and be deemed to be an order made under this Act, and all appointments made, licences or permits granted, and directions issued, under any such order and in force immediately before that day shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act."

STATEMENT OF OBJECTS AND REASONS

As a result of the Korean war there has been a sudden rise in the prices of foodstuffs. Similarly, on account of drought in certain parts of Madras last year, a comparative failure of gram crop in the last spring in North India and floods in Bihar on account of the heavy rains in the last month, there is a growing tendency among all sections of the people to hoard foodgrains. It is, therefore, necessary to take measures to stop this tendency to hoard which creates unnecessary panic. Unless hoarded quantities are made available to the Government, it will be difficult to maintain equitable distribution of our limited resources of foodgrains. The Bill, therefore, provides for more drastic punishment in the case of persons who are guilty of excessive hoarding of foodgrains. Provision has also been made for the expeditious disposal of cases of hoarding.

2. When the original Essential Supplies (Temporary Powers) Act was passed it was made applicable to British India. The Act, is, therefore, not applicable today to the States mentioned in Part B of the Constitution. It is necessary to have a uniform law on the subject of Essential Supplies for all parts of the Indian Union.

K. M. MUNSHI.

NEW DELHI;
The 11th August, 1950.

M. N. KAUL,
Secretary.

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NOTIFICATION.

No. L.D. 2026—Legis. 3-50-8, Bangalore, dated 5th October 1950.

Ordered that the accompanying Bills No. 47, 50, 51, 53, 54 and 55 of 1950. published in the *Gazette of India*, Part II, Section 2, dated the 12th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

Bills and Reports of Select Committees on Bills.

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 2nd August, 1950 :—

BILL No. 47, OF 1950.

A Bill to amend the Minimum Wages Act, 1948.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Minimum Wages (Amendment) Act, 1950.

2. *Amendment of section 3, Act XI of 1948.*—For clause (*a*) of sub-section (*1*) of section 3 of the Minimum Wages Act, 1948 (hereinafter referred to as the said Act), the following clause shall be substituted and shall be deemed always to have been substituted, namely :—

"(*a*) fix the minimum rates of wages payable to employees employed in all scheduled employments—

(i) in the case of an employment specified in the Schedule at the commencement of this Act, before the expiry of three years from such commencement; and

(ii) in the case of an employment included in the Schedule by a notification under section 27, two years or, as the case may be, three years from the date of such notification according as the employment is included in Part I or Part II of the Schedule;"

3. *Validation of certain action taken under Act XI of 1948.*—No minimum rate of wages fixed under section 3 of the said Act, and no action taken for fixing minimum rate of wages under any provision of the said Act, in an employment specified in Part I of the Schedule thereto, between the 15th day of March, 1950 and the 15th day of June, 1950 shall be invalid, merely because such rate was fixed or action was taken after the expiry of the period specified in clause (*a*) of sub-section (1) of section 3 of the said Act as originally enacted.

4. *Repeal of Ordinance XVII of 1950.*—The Minimum Wages (Extension of Time) Ordinance, 1950 (XVII of 1950), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

Under clause (*a*) of sub-section (*1*) of section 3 of the Minimum Wages Act, 1946 (XI of 1948), the appropriate Governments were required to fix minimum rates of wages in respect of the employments specified in Part I of the Schedule to the Act before the 15th March, 1950. The Union Government and most of the State Governments, for one reason or the other, have not been able to fix minimum rates of wages in respect of those employments by the stipulated date. Steps, however, are being taken to fix the rates as early as possible. The minimum rates of wages fixed after the 15th March, 1950 or any action taken under the enactment after that date could be contended as bad in law, because action was not taken within the period specified in the Act. To get over this difficulty and also to legalise the actions taken by the appropriate Governments regarding the fixation of minimum rates of wages in those employments after the 15th March, 1950, the Minimum Wages (Extension of Time) Ordinance, 1950, was promulgated. Since the Ordinance will, under Article 123 of the Constitution of India, cease to operate after six weeks from the reassembly of the next session of the Parliament, it is necessary to replace it by an Act. This Bill which is self-explanatory has, therefore, been brought before the Parliament.

JAGJIVAN RAM.

NEW DELHI;
The 25th July, 1950.

BILL No. 50 OF 1950.

A Bill to make certain additional provisions respecting the naval forces of the Union so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Naval Forces (Miscellaneous Provisions) Act, 1950.

2. *Ineligibility of females for enrolment or appointment in the naval forces.*—No female shall be eligible for enrolment or appointment in the naval forces except in such department, branch or other body forming part of, or attached to any portion of, the naval forces as the Central Government may, by notification in the Official Gazette, specify in this behalf.

3. *Power to modify certain fundamental rights in their application to members of the naval forces.*—Subject to the provisions of any law for the time being in force

relating to the naval forces or to any part thereof, the Central Government may, by notification in the Official Gazette, make rules—

(*a*) restricting, to such extent and in such manner as may be necessary, the right of any member of the naval forces—

(i) to be a member of, or to be associated in any way with, any trade union or labour union, or any class of trade unions or labour unions, or any society, institution or association, or any class of societies, institutions or associations;

(ii) to attend or address any meeting or to take part in any demonstration organised by any body of persons for any political or other purpose;

(iii) to communicate with the press or to publish or cause to be published any book, letter or other document;

(*b*) providing for the manner in which and the period for which any member of the naval forces may be taken into, and detained in, naval custody, pending the trial of any such member by a competent naval authority for any offence committed by him.

4. *Continuation of existing rules, regulations, etc.*—All rules, regulations, orders, directions, and instructions relating to members of the naval forces or any part thereof, made or issued before the commencement of this Act by or under the authority of the Central Government or of the Commander-in-Chief, Indian Navy, or by any other competent naval authority, shall, in so far as they relate to any of the matters dealt within this Act have effect as if they were rules made under this Act.

5. *Repeal of Ordinance XXI of 1950.*—(1) The Naval Forces (Miscellaneous Provisions) Ordinance, 1950 (XXI of 1950) is hereby repealed.

(2) Notwithsanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

Some of the regulations and executive instructions or orders to which members of the Armed Forces were subject prior to the 26th January 1950, had the effect of contravening some of the provisions of the Constitution relating to fundamental rights and would have become inoperative after that date but for the promulgation of the Armed Forces (Miscellaneous Provisions) Ordinance, 1950, on the 23rd January 1950. This Ordinance had to be promulgated as it was considered necessary that certain of the fundamental rights should be abrogated or restricted in their application to members of the Armed Forces so as to ensure the proper discharge of their duties and the maintenance of discipline among them. It was hoped that by the time this Ordinance lapsed, necessary legislation would have been passed by Parliament under Article 33 of the Constitution. In fact, so far as the Army and the Air Force are concerned, this has been done by including the relevant provisions of the Ordinance in the new Army and the Air Force Acts which were passed by Parliament on the 6th April, 1950. The new disciplinary code for the Navy is still under preparation and will not be ready for consideration by Parliament during this session. The Armed Forces (Miscellaneous Provisions) Ordinance lapsed on the 23rd July 1950, and in order to continue its application to

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the Navy from that date, it has been necessary to repromulgate the Ordinance in a modified form. The Naval Forces (Miscellaneous Provisions) Ordinance was therefore promulgated on the 23rd July 1950. As the life of an Ordinance is now limited to six weeks from the reassembly of Parliament and as the new Navy Bill would not have become law within that time, this Bill has been brought forward to convert the Ordinance into an Act.

BALDEV SINGH.

NEW DELHI;
The 29th July 1950.

The following Bills were introduced in Parliament on the 7th August, 1950:—

BILL No. 51 OF 1950.

A Bill further to amend the Coal Mines Provident Fund and Bonus Schemes Act, 1948.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1948.

2. *Amendment of section 1, Act XLVI of 1948.*—In sub-section (2) of section 1 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (hereinafter referred to as the said Act), for the words "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" the words "except the State of Jammu and Kashmir" shall be substituted.

3. *Amendment of section 2, Act XLVI of 1948.*—In clause (*a*) of section 2 of the said Act, for the words "employee in a coal mine", the word employee" shall be substituted.

4. *Amendment of sections 3 and 5, Act XLVI of 1948.*—In sub-section (1) of section 3 and in sub-section (1) of section 5 of the said Act, for the words "employees in coal mines", the word "employees" shall be substituted,

4. *Amendment of Second Schedule, Act XLVI 1948.*—In item 1 of the Second Schedule to the said Act, for the words "employee in a coal mine" the word "employee" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The expression "employee" is defined by section 2 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948, to mean any person who is employed in any kind of work, manual or otherwise, in or in connection with a coal mine and who gets his wages directly or indirectly from the employer. A doubt has been expressed that by reason of the use of the words "employee in a coal mine" or "employees in coal mines" in certain parts of the Act it is not permissible to extend the provident fund and bonus schemes to persons employed, say, in the central offices of a group of colliery-owners and ancillary organisations, although such offices are situated within the precincts of a mine and are connected with the mine. The present Bill seeks to make the definition apply uniformly throughout the Act. Ample powers exist in the Act to determine the employees or class of employees who shall be entitled to join the fund.

JAGJIVAN RAM.

NEW DELHI;
Dated 28th July, 1950.

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BILL No. 53 OF 1950.

A Bill to provide for the transfer of the business of the Allianz Under Stuttgarter Life Insurance Bank, Limited, to the United India Life Assurance Company, Limited, and for matters connected therewith.

BE it enacted by Parliament as follows :—

1. *Short title and commencement*—(1) This Act may be called the Allianz Und Stuttgarter Life Insurance Bank (Transfer) Act, 1950.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "the Act" means the Insurance Act, 1938 (IV of 1938);

(*b*) "transferee company" means the United India Life Assurance Company, Limited, having its registered office in Madras;

(*c*) "transferor company" means the Allianz Und Stuttgarter Life Insurance Bank, Limited.

3. *Trnsfer of assets and liabilities of the transferor company to the transferee company.*—All the assets and liabilities of the transferor company which relate to or arise out of the life insurance business of the transferor company carried on immediately before the commencement of this Act by Messrs. A. F. Ferguson and Company, Chartered Accountants of Bombay, under the Defence of India Rules shall, by virtue of this Act, stand transferred to and vest in the transferee company, subject to the provisions of this Act and to the terms and conditions specified in the First Schedule.

4. *Effect of transfer of assets and liabilities to transferee company.*—(1) Every contract of life insurance, entered into between the transferor company and the holder of any life policy before the commencement of this Act, shall have effect as from such commencement as if the transferee company had been a party to the contract instead of the transferor Company and for any reference (however worded and whether express or implied) to the transferor company there were substituted as respects anything falling to be done on or after such commencement, a reference to the transferee company, and with such other modifications as may be necessary to transfer rights, liabilities and obligations under the contract so far as unperformed, from the transferor company to the transferee company;

Provided that no provision in any such contract for the payment of any bonus, profit, interest or dividend on any life policy shall have effect against the transferee company except on the basis of an actuarial valuation of the business of the transferor company made after the commencement of this Act and to the extent, if any, that may be recommended by the actuary.

(2) For the removal of doubts it is hereby declared that notwithstanding any decision or rule of law to the contrary, no contract of life insurance as is referred to in sub-section (1) shall be deemed to have been dissolved merely by reason of the declaration that war had broken out between the Government of the United Kingdom and Germany.

5. *Cessation of payment of commission to past insurance agents.*—(1) Notwithstanding anything to the contrary contained in the Act or in any other law for the time being in force or in any contract, all contracts of agency entered into before the

31st day of July, 1942, between an insurance agent, a special agent or a chief agent (by whatever name called) and the transferor company, and any appointment made before the said date whereby remuneration is payable to any person in the form of commission or bonus, shall be deemed to have been terminated with effect from the said date and no commission or bonus due to such agent or person, whether on renewal premiums or otherwise, shall be payable to him in respect of any life policies procured by or through him before the said date.

(2) Notwithstanding anything to the contrary contained in any law for the time being in force, no compensation shall be payable to any person for the termination, in pursuance of this section, of any contract of agency or other appointment.

6. *Provision for facilitating transfer.*—The Central Government may, by order notified in the Official Gazette, make such incidental, supplementary or consequential provisions as, in its opinion, are necessary to secure that the transfer of the assets and liabilities of the transferor company to the transferee company are fully and effectively carried out, and in particular and, without prejudice to the generality of such power, provision may be made by order—

(*a*) for adapting the terms of contracts entered into between the transferor company and any other person before the commencement of this Act, so as to conform to the changes consequent on the passing of this Act in the circumstances in which the contracts will fall to be performed after such commencement;

(*b*) for requiring any person concerned with the keeping of the register of the holders of any securities or investments now transferred to the transferee company, to forthwith register the transferee company therein and to issue to the transferee company the appropriate documents of title relating to the securities or investments transferred to it;

(*c*) for the continuation by or against the transferee company of any legal proceedings pending by or against the transferor company.

7. *Power to give directions.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Controller of Insurance may, with the approval of the Central Government, give such directions to the transferee company as he may consider necessary and the transferee company shall be bound to comply with such directions.

(2) If the transferee company fails to comply with any direction given to it under sub-section (1) shall be deemed to have committed an offence punishable under section 102 of the Act.

8. *Repeal of certain notifications.*—The notifications specified in the Second Schedule shall cease to have effect on the commencement of this Act, except as respects things done or omitted to be done before such commencement.

THE FIRST SCHEDULE.

(See section 3).

Terms and conditions relating to the transfer of the business of the transferee company.

1. The transferee company shall maintain a separate account in which shall be shown the business of the transferor company which has been transferred to it and a separate valuation thereof shall be made from time to time with a view to

ascertaining whether profits appertaining to such business and divisible among holders of life policies exist.

2. The transferee company shall be bound to pay in full all claims arising out of any life policy issued by the transferor company and remaining to be paid at the commencement of this Act or falling to be paid at any time after such commencement.

3. Notwithstanding anything contained in Notification No. 168-I (23)-W/41 of the Government of India in the Commerce Department, dated the 27th day of June, 1942, the transferee company shall be liable to make good in respect of every policy of life insurance which had fallen due for payment before the commencement of this Act the difference between the amounts actually paid to the holder thereof by or on behalf of the transferor company in pursuance of the said notification and the full amount which would have been payable if that notification had not been issued.

4. If the transferee company recovers or receives any money from outside India which relate to the assets now transferred to the transferee company the same shall be applied by the transferee company for the benefit of the life policies of the transferor company issued in India.

THE SECOND SCHEDULE.

(See section 8).

Repeals.

Notification No. and date.	*Contents of Notification.*
1. No. 218-OR/39, dated the 14th December 1939, of the Government of India, Defence Co-ordination Department.	Authorising Messrs. A. F. Ferguson and Company Chartered Accountants of Bombay, to carry on the business of the transferor company under rule 113A of the Defence of India Rules, since continued in force by the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947 (XVI of 1947).
2. No. 168-1 (2)-W/39, dated the 22nd February, 1941, of the Government of India, Department of Commerce.	Granting exemptions to Messrs. A. F. Ferguson and Company from the operation of certain provisions of the Act.
3. No. 168-1 (23)-W-41, dated the 27th June, 1942, of the Government of India, Department of Commerce.	Exempting Messrs. A. F. Ferguson and Company from the obligation imposed by any contract of insurance in respect of so much thereof as is in excess of 80 per cent of the liability arising therefrom.

STATEMENT OF OBJECTS AND REASONS.

The Allianz Und Stuttgarter Life Insurance Bank, Limited, Delhi, is the Indian branch of the pre-war German firm, bearing the same name with its Head Office in Berlin. The Company carried on life insurance business in India. On the outbreak of the second World War, the property of the Allianz Und Stuttgarter was vested in the Custodian of Enemy Property. With a view to safeguarding the interests of its Indian policy-holders, the Government of India subsequently authorised Messrs.

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A. F. Ferguson and Company, Chartered Accountants, to carry on its business under rule 113A of the Defence of India Rules, subject to the superintendence, direction and control of the Central Government, and on the condition that no new contracts of life insurance were to be effected. The business is thus run as a closed fund which means a progressive increase in the cost of administration, and further, on the basis of actuarial valuation that was done, it has been considered advisable to effect a 20 per cent, cut in the policy payments.

2. The Advisory Board, which advises Government on the administration of this business, has now reviewed the position and has recommended that it would be in the best interests of the policy-holders if the business of this company is merged with that of some other sound insurer. It is accordingly proposed that the business of the Allianz Und Stuttgarter Life Insurance Bank, Limited, Delhi, should be transferred to the United India Life Assurance Company, Limited, Madras. This Company has *inter alia* offered to restore retrospectively the cut of 20 per cent, that has been effected in the policy payments.

3. This Bill is intended to make the necessary provision for transferring the business of the German firm in India to the United India Life Assurance Company, Limited, Madras.

SRI PRAKASA.

NEW DELHI;
The 2nd August, 1950.

BILL *NO. 54 OF 1950.

A Bill to provide for the establishment and maintenance of a Contingency Fund.

BE it enacted by the Parliament as follows:—

1. *Short title.*—This Act may be called the Contingency Fund of India Act, 1950.

2. *Establishment of the Contingency Fund of India.*—There shall be established a Contingency Fund in the nature of an imprest entitled the Contingency Fund of India, into which shall be paid from and out of the Consolidated Fund of India a sum of fifteen crores of rupees.

3. *Custody of the Contingency Fund and withdrawals therefrom.*—The Contingency Fund of India shall be held on behalf of the President by a Secretary to the Government of India in the Ministry of Finance, and no advances shall be made out of such Fund except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by Parliament under appropriations made by law.

4. *Power to make rules.*—For the purpose of carrying out the objects of this Act, the Central Government may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into and the withdrawals of moneys from, the Contingency Fund of India.

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*The President has, in pursuance of clause (1) of article 117 of the Constitution of India, recommended the introduction of the Bill.

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STATEMENT OF OBJECTS AND REASONS.

Pursuant to articles 267 (1) and 283 (1) of the Constitution, this Bill seeks to provide for the establishment of the Contingency Fund of India, and for the custody of, the payment of moneys into and the withdrawal of moneys from, such Fund. It is proposed to place a sum of fifteen crores of rupees in Fund, which will be administered by the Finance Ministry on behalf of the President. The advances will be resumed to the Fund as soon as the necessary supplementary funds have been authorised by Parliament through supplementary Appropriation Acts or at the end of the Financial year.

C. D. DESHMUKH.

NEW DELHI;
The 28th July, 1950.

The following Bill was introduced in Parliament on the 8th August, 1950 :—

BILL NO. 55 OF 1950.

A Bill to vest an Enquiring Authority with certain powers.

1. *Short title and extent.*—(1) This Act may be called the Sugar Crisis Enquiring Authority Act, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definition.*—In this Act, " Enquiring Authority " means the person appointed under the Resolution of the Government of India in the Ministry of Agriculture, No. SV-101 (4-15)/50, dated the 12th June, 1950, to make an enquiry into some aspects of the sugar crisis.

3. *Powers of Enquiring Authority.*—(1) The Enquiring Authority shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) requiring the discovery and production of any document ;

(*c*) reception of evidence on affidavits ;

(*d*) requisitioning any public record from any court or office ;

(*e*) issuing commissions for the examination of witnesses.

(2) The Enquiring Authority shall have power to require any person to furnish information on such points or matters as, in the opinion of the Enquiry Authority, may be useful for, or relevant to, the subject-matter of enquiry.

(3) The Enquiring Authority, or any officer specially authorised by the Enquiring Authority, may enter any building or place where he has reason to believe that any books of account or other documents relevant to the subject-matter of the enquiry may be found, and may seize any such books of account of documents or take extracts or copies therefrom.

(4) The Enquiring Authority shall be deemed to be a civil court for the purposes of section 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898), and any proceeding before the Enquiring Authority shall be deemed to be a judicial

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proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

4. *Statements made by persons to the Enquiring Authority.*—No statement made by a person in the course of giving evidence before the Enquiring Authority shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(*a*) is made in reply to a question which he is required by the Enquiring Authority to answer, and

(*b*) is relevant to the subject-matter of the enquiry.

STATEMENT OF OBJECTS AND REASONS.

The Government of India in their Resolution No. SV-101 (4-15)/50, dated the 12th June, 1950, appointed Shri Ganga Nath, a retired Judge of the Allahabad High Court, to conduct an enquiry into certain aspects of the sugar crisis of July—August, 1949. It now appears that certain sugar mills are not voluntarily supplying information required of them to the Enquiring Authority. For a successful completion of the enquiry, it is, therefore, necessary to invest the Enquiring Authority with certain powers to summon witnesses, take evidence on oath, compel persons to furnish information and enable him and his inspecting staff to have access to and examine the records of certain persons and companies. This bill seeks to vest the Enquiring Authority with such powers.

K. M. MUNSHI.

NEW DELHI;
The 27th July, 1950.

M. N. KAUL,
Secretary.

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PART IV

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Section I-B

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L. D. 2241—Legis. 2-50-42, dated Bangalore, 27th October 1950.

Ordered that the following Representation of the People (Amendment) Ordinance, 1950 (XXIX of 1950) be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE, 1950.

ORDINANCE No. XXIX OF 1950.

AN ORDINANCE to amend the Representation of the People Act, 1950.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1950.

(2) It shall come into force at once.

2. *Insertion of new section 22A in, and amendment of sections 26 and 28 of Act XLIII of 1950.*—During the period of operation of this Ordinance, the Representation of the People Act, 1950, shall have effect as if—

(*a*) after section 22, the following section had been inserted, namely:

"22A. *Special provisions with regard to electoral rolls first prepared under the Act.*—(1) Notwithstanding anything contained in the foregoing provisions of this Part the first electoral rolls under this Act shall be prepared in relation to such areas (referred to in this Act as "electoral units") in each State as the Election Commission may, in consultation with the Government of that State, direct.

(2) An electoral roll prepared under sub-section (*1*) shall be published in such manner and at such places as may be prescribed by reference to the electoral unit for which the roll has been prepared for the purpose of inviting claims for inclusion in, or objection to, such roll.

(3) For the purpose of the preparation of electoral rolls under sub-section (*1*) and the claims and objections referred to in sub-section (2), the provisions of sections 15, 17, 18, 19, 20 and 22 shall have effect as if for any reference to a constituency in the said sections there were substituted a reference to an electoral unit.

(4) After the constituencies in a State have been determined under, Part II and after the claims and objections in respect of the electoral rolls for all the electoral units or parts thereof comprised in a constituency so determined have been disposed of in accordance with the rules made in that behalf under section 28 and such electoral rolls have been altered in accordance with the decisions given on such claims and objections, the electoral rolls for all such electoral units and parts thereof so altered shall be republished in the manner prescribed as the electoral roll for such constituency and shall, on such republication, be deemed to be the electoral roll prepared under this Act for that constituency";

(*b*) in section 26, after the words and figures "sections 15 to 25", the brackets, words, figures, and letter "(including the special provisions contained in section 22A)" has been inserted; and

(*c*) in clause (*b*) of sub-section (2) of Section 28, the words "in the constituencies to which they relate" had been omitted.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

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at the Government Press, Bangalore.

PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

(HOME DEPARTMENT)

No. H.B. 6645—Ptl. 11-50-4, dated Bangalore, the 18th October 1950.

In exercise of the powers conferred by Sub-section (1) of Section 26 of the Indian Post Office Act, 1898 (Central Act VI of 1898), His Highness the Maharaja of Mysore is pleased to authorise the Chief Secretary to the State Government as the Officer authorised to exercise the powers under the said Section.

By Order of His Highness the Maharaja,

No. H. B. 6657—Ptl. 11-50-3, dated Bangalore, the 18th October 1950.

In exercise of the powers conferred by Sub-section (1) of Section 5 of the Indian Telegraph Act, 1885 (Central Act XIII of 1885), His Highness the Maharaja of Mysore is pleased to authorise the Chief Secretary to the State Government as the Officer authorised to exercise the powers under the said Section.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

No. L. 7517—C.M. 30-50-7, dated Bangalore, the 28th October 1950.

In exercise of the powers conferred by sub-section (1) of section 48 of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act No. LXIX of 1949) and in supersession of Notification No. L. 5479—C.M. 49-49-14, dated 7th December 1949, His Highness the Maharaja of Mysore is pleased to fix the boundaries of the fifty (50) territorial Divisions of the City of Bangalore as detailed in the annexed schedule for the purpose of the election of the Divisional Councillors to fill the fifty general seats referred to in clause (a) of sub-section (1) of section 5 of the said Act.

By Order of His Highness the Maharaja,

L. MUNISWAMY,
Secretary to Government,
Local Self-Government Department.

SCHEDULE.

Boundaries of the Electoral Divisions of the City of Bangalore.

Name of the Division.	*No. of the Division*	*Boundaries of the Division.*
Malleswaram West Division	1	East—III Main Road West—Mysore State Railway Line North—Tumkur Road. South—5th Cross Road, Malleswaram.
Malleswaram East Division.	2	East—Polo Ground, Parsi Burial Ground, Malleswaram-Guttahalli Road and Pipe Line Road. West—III Main Road, Malleswaram. North—Sankey Reservoir Road and Tumkur Road. South—5th Cross Road, Malleswaram.
Sreerampuram Division ...	3	East—Mysore State Railway Line West—Corporation Boundary. North—Corporation Boundary. South—Sreerampuram 6th Cross Road

Name of the Division.	*No. of the Division.*	*Boundaries of the Division.*
Labour Colony Division ...	4	East—V Main Road. West—Corporation Boundary. North—6th Cross Road, Sreeramapuram South—Mysore Deviation Road
Maharaja Mills Division ...	5	East—Subedar Chattram Road and Venkataranga Iyengar Road. West—V Main Road, Sreeramapuram Halla and Railway Line. North—5th Cross Road, Malleswaram South—Mysore Deviation Road and M. S. M. Railway Line.
Seshadripuram Division ...	6	East—Pipe Line Road. West—Subedar Chattram Road and Venkataranga Iyengar Road. North—5th Cross Road, Malleswaram South—M. S. M. Railway Line
Subhas Nagar Division ...	7	Dharmambudi East Tank Bund Road starting from Seshadri Road up to the South Tank Bund Road junction and then turn towards easterly direction meeting Balepet Road and then proceed on Balepet Road towards South to meet T. C. Road (South) and then proceed on T.C. Road towards West to meet crossing Railway line meeting Corporation Boundary on the North-West corner and then turn towards East (Northern boundary) meeting Platform Road and then turn towards South-West meeting Railway under-bridge and then turn towards South-Easterly direction meeting Seshadri Road.
Kempapur Agrahar Division.	8	East—Agrahar Tank Bund Road. West—Natural Corporation Boundary. North—Minerva Mills bordering 7th ward Boundary. South—Mysore Road.
Kemmangundi Division ...	9	East—Aralepet Road. West—Agrahar Tank Bund Road. North—Taluk Cutcherry Road. South—Beli Mutt Road, Binny Mill Road.

Name of the Division.	*No. of the Division.*	*Boundaries of the Division.*
Chickpet Division ...	10	East—Avenue Road. West—Balepet Road. North—Rangaswamy Temple Street. South—Taluk Cutcherry Road.
Rangaswamy Temple Division.	11	East—Avenue Road. West—Balepet Road. North—Hospital Road. South—Rangaswamy Temple Street.
Gandhinagar Division ...	12	East—Palace Road, Avenue Road. West—Dharmambudhi East Tank Bund Road. North—Start from the Dharmambudhi Tank Bund Road and Seshadri Road, meeting Railway under-bridge and proceed on M.S.M. Railway line towards North-East direction up to the junction of Subedar Chattram Road at the level cross and turn towards South meeting Ananda Rao Circle and then turn towards easterly direction and proceed on Seshadri Road meeting the starting-point at Kantaraj Urs Circle. South—Hospital Road.
Sri Kasi Visweswaraswamy Temple Division.	13	East—Avenue Road. West—Aralepet Road. North—Taluk Cutcherry Road. South—Sulthanpet Road and Old Tharagupet Road.
Sri Krishnarajendra Market Road Division.	14	East—Avenue Road. West—Akkipet Road, Beeredevaragudi Lane. North—Sulthanpet Road and old Tharagupet Road. South—Mysore Road.
Super Talkies Division ...	15	East—Akkipet Road and Beeredevaragudi Lane. West—New Mysore Road, Agrahar Tank Bund Road. North—Binny Mill Road, Beli Mutt Road, Cottonpet Road and Setty Muddanna Lane. South—Old Mysore Road.
Chamarajpet West Division	16	East—VI Cross Road, Chamarajpet West—Corporation Boundary. North—Mysore Road. South—Kempambudi Tank Water spread area.

Name of the Division.	*No. of the Division.*	*Boundaries of the Division.*
Chamarajpet East Division	17	East—Sri Krishnarajendra Road. West—VI Cross Road, Chamarajpet. North—Mysore Road. South—V Main Road, Chamarajpet, Bull Temple Road and VI Main Road, Chamarajpet.
Kalasipalyam Division ...	18	East—Lal-bagh High Road. West—Sri Krishnarajendra Road. North—Mavalli Tank Bund Road. South—Lal-bagh Fort Road.
Gavipur-Guttahalli Division	19	East—Bull Temple Road. West—Corporation Boundary. North—Kempambudhi Water spread area (VI Main Road, Chamarajpet. South—Bugle Rock Road and Corporation Boundary).
Shankarpur Division ...	20	East—Krishnarajendra Road from Irwin Circle to Gandhi Square. West—Bull Temple Road from the junction of Bugle Rock Road up to the junction of V Road, Chamarajpet. North—V Main Road, Chamarajpet starting on Bull Temple Road junction, proceed towards East to meet Irwin Circle at the junction of Krishnarajendra Road. South—Bugle Rock Road from Gandhi Square to Bull Temple Road.
Visveswarapuram Division	21	East—East Road West—Sri Krishnarajendra Road North—Lal-bagh Fort Road South—Vani Vilas Road
Bull Temple Division ...	22	East—Sri Krishnarajendra Road West—Corporation Boundary North—Bounded by Bugle Rock Road South—Corporation Boundary
Basavangudi East Division	23	East—Village Meeting Corporation Boundary West—Sri Krishnarajendra Road starting from South End of Tata Silk Farm, proceed towards North to meet Vani Vilas Circle near National High School.

Name of the Division.	*No. of the Division.*	*Boundaries of the Division.*
		North—Bounded by Vani Vilas Road, proceed on the same road up to West Gate, Lal-bagh and then turn towards South in East Road to meet Kanakanapalya East tract Road and proceed towards East, on the North of Kanakanapalya and on the South of Siddapur
Mavalli Division ...	24	South—Corporation Boundary East—Corporation Boundary West—East Road North—Lal-bagh Fort Road. Lal-bagh High Road, Sunkal Farm Road meeting Municipal Boundary towards East
Town Hall Division ...	25	South—Northern boundary of the 23rd Division as already notified, *viz.*, Kanakanapalya road (starting from East Road, Basavangudi and meeting at the Corporation boundary on the East). East—Monkey Thope Road and Corporation Boundary. West—Armuga Mudaliar Lane, Kalasipalyam North—Sri Narasimharaja Road, Mission Road and Lal-bagh Road South—VI Road, Wilson Garden, Sunkal Farm Road and Tank Bund Road
Dharmarayaswamy Temple Division ...	26	East—Sri Jayachamarajendra Road West—Avenue Road North—Taluk Cutchery Road South—Sri Narasimharaja Road
Anjaneya Temple Division.	27	East—Siddanna Lane West—Avenue Road North—Cubbon Main Road South—Taluk Cutchery Road
Taramandalpet Division ...	28	East—Cenotaph Circle West—Siddanna Lane North—Cubbon Main Road South—Taluk Cutchery Road
Cubbonpet Division ...	29	East—Sydney Road, Sampangi Tank North Bund Road and Residency Road up to Lal-bagh Road junction West—Avenue Road and Palace Road

Name of the Division	No. of the Division.	Boundaries of the Division
High Grounds Division ...	30	North—Seshadri Road, Post office Road, and Queen's Road South—Lal-bagh Road, Mission Road and Cubbon Main Road East—Miller Road and Palace Road West—M.S.M. Railway line, Pipe line and New Guttahalli Road
Palace Guttahalli Division.	31	South—Seshadri Road North—Palace Cross Road and Palace Upparahalli Road East—Jayamahal Road West—Pipe line Road up to junction of Malleswaram, Palace Guttahalli Road and turn towards East up to Parsee Burial Ground and then turn towards North meeting Sankey's Road South—New Guttahalli Road and Palace Guttahalli Road
Benson Town Division ...	32	North—Sankey's Road crossing, Bellary Road and Palace Garden Road meeting Jayamahal Road East—Borebank Road South—Railway Station Road West—Corporation boundary and Jayamahal Road
Fraser Town Division ...	33	North—Corporation boundary. East—Water course from Corporation boundary on the North up to the Railway under-bridge opposite to Fraser Town Police Station, Hindu Cemetery Road, Kenchappa Road up to Wheeler Road junction. South—Main storm water drain flowing West to East from its junction with water course from Corporation boundary near slaughter house up to Wheeler Road Bridge. West—Corporation boundary, water course starting from Station boundary up to its junction with main storm water drain near slaughter house.

Name of the Division	*No. of the Division.*	*Boundaries of the Division*
St. John's Hill Division ...	34	North—Main (storm water) drain (flowing West and East) from railway under-bridge (near sweepers' lines on Borebank Road) to Wheeler Road bridge. East by main (storm water) drain from Wheeler Road bridge to Meeanee Avenue Road. South by St. John's Church Road. West by Tannery Road.
Cox Town Division ...	35	North by Corporation boundary. East by Corporation boundary. South by Meeanee Avenue Road. West by main (storm water) drain from Meeanee Avenue Road up to Wheeler Road Bridge, Kenchappa Road, Hindu Cemetery Road up to railway under-bridge opposite to Fraser Town Police Station and along water course behind Hutchins Road houses up to Corporation boundary.
Murphy Town Division ...	36	North by Meeanee Avenue Road, Corporation boundary. East by Corporation boundary. South by water course flowing East and West from Appareddypalyam up to the junction of main channel and main channel from the junction of water course (above) to the bridge on Kensington Road. West by Kensington Road.
Joughpalyam Division ...	37	North by Richmond Road, Old Madras Road and main channel from bridge on Old Madras Road to its junction with water course from Appareddypalyam, and along the water course from its junction with main channel to Corporation boundary near Appareddypalyam. East by Corporation boundary. South by Corporation boundary. West by Corporation boundary and Lower Agaram Road.

Name of the Division	*No. of the Division*	*Boundaries of the Division*
Ulsoor Division	38	North by Main channel from the bridge on Kensington Road to the bridge on Old Madras Road. East by Old Madras Road. South by Old Madras Road. West by Kensington Road.
Commercial Street Division	39	North by Main channel from bridge on Narayanpillay Street to bridge on Kensington Road. East by Kensington Road. South by Mahatma Gandhi Road, Dickenson Road and Cubbon Road. West by Main Guard Cross Road and Narayanpillay Street.
Sivan Chetty Garden Division.	40	North by St. John's Church Road, Meeanee Avenue Road. East by Kensington Road. South by main channel from bridge on Kensington Road to bridge on Narayanpillay Street. West by Narayanpillay Street, Thimmiah Road and Cavalry Road.
Bamboo Bazaar Division ...	41	North by St. John's Church Road. East by Cavalry Road. South by Thimmiah Road. West by Sultanjigunta Road and Station Road.
Central Bazaar Division ...	42	North by Thimmiah Road. East by Narayanpillay Street. South by main channel from Narayanpillay Street to New Market Road. West by New Market Road, Sultanjigunta Road.
Hospital Division ...	43	North by main channel from New Market Road to Narayanpillay Street. East by Narayanpillay Street and Main Guard Cross Road. South by Hospital Road. West by Central Street, Meenakshi Koil Street, and Cart Road and New Market Road.
Blackpally Division ...	44	North by main channel from its starting point at Millers Tank on Queeen's Road to bridge on New Market Road.

Name of the Division.	No. of the Division.	Boundaries of the Division.
		East by New Market Road, Cart Road and Meenakshi Koil Street. South by Chick Bazaar Road. West by Queen's Road.
Broadway Division ...	45	North by Railway Station Road. East by Sultanjigunta Road, New Market Road. South by main channel from New Market Road to its starting point at Millers Tank. West by Queen's Road.
Tasker Town Division ...	46	North by Station Road. East by Queen's Road, Chick Bazaar Road, Central Street, Hospital Road, Main Guard Cross Road. South by Cubbon Road, Post Office Road, Seshadri Road. West by Palace Road, Miller's Road.
McIver Town Division ...	47	North by Cubbon Road. East by Brigade Road. South by Richmond Road. West by Sampangi Road, Sydney Road and Queen's Road.
Shoolay Division ...	48	North by Cubbon Road, Dickenson Road and Mahatma Gandhi Road. East by Richmond Road. South by Richmond Road. West by Brigade Road.
Richmond Town Division...	49	North by Richmond Road. East by Hossur Road. South by Corporation Boundary. West by Corporation Boundary.
Austin Town Division ...	50	North by Richmond Road. East by Lower Agaram Road. South by Corporation Boundary. West by Hossur Road.

L. MUNISWAMY,
Secretary to Government,
Local Self-Government Department.

No. E. 7045—Uni. 68-50-2, dated Bangalore, 24th October 1950.

Under Section 14 (2) (f) of the Mysore University Act III of 1933, His Highness the Chancellor is pleased to nominate Sri C. J. Verkey M.A. (HONS.) Principal, St. Philomena's College, Mysore, as a Member of the University Council, *vice* Rev. Father C. A. Browne.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,
Secretary to Government,
Education Department.

No. L. S. 2610—L. W. 153-50-12, dated Bangalore, the 21st October 1950.

In partial modification of Notification No. L. S. 1650—L. W. 153-50-4 dated 17th August 1950, constituting a Committee to hold enquiries and advise Government regarding the fixation of minimum rates of wages and minimum work loads in respect of employment in the Textile Mills in Mysore, His Highness the Maharaja of Mysore is pleased to appoint Mr. F. M. Thomas of the Bangalore Woollen, Cotton and Silk Mills Co., Ltd., Bangalore, as a Member on the Committee in place of Mr. A. Nisbett.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Secretary to Government,
Law Department.

No. L. S. 2705—L. W. 4-50-6, dated Bangalore, the 30th October 1950.

In exercise of the powers conferred by Section 49 of the Mysore Shops and Establishments Act, 1948 (Mysore Act II of 1948), His Highness the Maharaja of Mysore is pleased to direct that the following amendment shall be made in the Mysore Shops and Establishments Rules, 1948, the draft of the same having been previously published in the *Mysore Gazette*, dated 13th April 1950, in Notification No. L.S. 75—L.W. 4-50-1, dated 8th April 1950.

Amendment.

In the said Rules, Rule 39 shall be renumbered as Rule 40, and before the Rule as so renumbered the following Rule shall be inserted as Rule 39, *viz.*,

"39: The State Government may, by Notification in the *Mysore Gazette*, exempt any establishment or class of establishments or person or class of persons from any of the provisions of these Rules, subject to such conditions as may be specified in the Notification; and whoever contravenes any of the conditions so specified shall, for purposes of Rule 40, be deemed to have contravened this Rule".

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

No. A. F. 6466—Agri. 152-49-3, dated Bangalore, the 30th October 1950.

In exercise of the powers conferred by Section 3 of the Destructive Insects and Pests Act, 1917 (Mysore Act, VI of 1917), His Highness the Maharaja of Mysore is pleased to direct that the following amendment shall be made in Notification No. A. F. 4847—Agri. 152-49-1, dated 27th December 1949, namely:—

In the said notification, *for the words* "Paddy crop" the words "Paddy and Jola crops" *shall be substituted.*

By Order of His Highness the Maharaja,

A. S. KHALEEL,

Secretary to Government, Food and Agriculture Departments.

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PART IV.

Section I-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 2019—Legis. 8-50-53, dated Bangalore, the 5th October 1950.

Ordered that the following Notification No. S.R.O. 426 dated 18th August 1950 of the Ministry of Commerce amending the Insurance Rules, 1939, published in the *Gazette of India* Part II, Section 3, dated the 18th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMERCE.

NOTIFICATION.

INSURANCE.

New Delhi, the 18th August 1950.

S.R.O. 426.—In exercise of the powers conferred by sub-section (1) and (2) of Section 114 of the Insurance Act, 1938 (IV of 1938) as amended by the Insurance (Amendment) Act, 1950 (XLVII of 1950), and read with Section 22 of the General Clauses Act, 1897 (X of 1897) the Central Government is pleased to direct that the following further amendments shall be made in the Insurance Rules, 1939, the same having been previously published as required by sub-section (1) of the former section, namely :—

A. In the said Rules,—

1. For the words "Superintendent of Insurance and" "Superintendent" wherever they occur, the word "Controller" shall be substituted.

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II. For Rule 2, the following Rule shall be substituted, namely :—

2. *Definitions.*—In these Rules,—

(i) " the Act " means the Insurance Act, 1938 (IV of 1938) ;

(ii) " the Bank " means the Reserve Bank of India ;

(iii) " Bombay area " means the area comprising the States of Bombay, Kutch, Madhya Pradesh, Saurashtra, Hyderabad and Madhya Bharat ;

(iv) " Calcutta area " means the area comprising the States of Assam, West Bengal, Bihar and Orissa ;

(v) " Delhi area " means the area comprising the States of Delhi, Ajmer, Punjab, Himachal Pradesh, Uttar Pradesh, Vindhya Pradesh Rajasthan, the Patiala and East Punjab States Union and Jammu and Kashmir.

(vi) " Madras area " means the area comprising the States of Madras, Travancore-Cochin and Mysore ; and

(vii) words used but not defined in these Rules have the meanings respectively assigned to them in the Act."

III. After Rule 10, the following heading and Rules shall be inserted, namely :—

"SECURITIES AND INVESTMENTS.

10A. *Pakistan securities.*—Securities guaranteed fully as regards principal and interest by a Provincial Government in Pakistan or charged on the revenues of any part of that Dominion and debentures or other securities for money issued by or on behalf of the trustees of the Port of Karachi shall be recognised, in the case of insurers incorporated or domiciled in India, as approved securities—

(*a*) for the purposes of sections 7, 98 or 73, if such securities had been deposited with the Bank in pursuance of the Act before the 15th day of August 1947, and continue to be so deposited with the Bank since that date, and

(*b*) for the purposes of sections 27 and 27A, if such securities had been acquired by an insurer or a provident society before the 15th day of August 1947, and continue to be held since that date by the insurer or the provident society.

10B. *Assets deemed to be approved investments.*—For the purposes of sub-section (1) of section 27 of the Act, the following assets shall be deemed to be assets invested or kept invested in approved investments specified in sub-section (1) of section 27A of the Act :—

(*a*) interest, dividend and rents (outstanding and accrued) ;

(*b*) cash in hand and with banks in current and collection accounts ;

(*c*) bills receivable ;

(*d*) value of furniture, fittings, machinery, stationery and library but not exceeding Rs. 10,000 or one per cent of the sum referred to in sub-section (1) of section 27 of the Act, whichever is greater ;

(*e*) value of motor cars but not exceeding Rs. 20,000 or one-half per cent. of the sum referred to in sub-section (1) of section 27 of the Act, whichever is greater ;

(*f*) stamps on hand ;

(*g*) amount of income-tax directed by the Income-tax authority to be refunded,

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10C. *Returns of investments and changes in investments.*—(1) The return to be furnished under sub-section (1) of section 28A of the Act shall show all the investments made out of the controlled fund and subsisting as at the 31st day of December of the preceding year and shall be in Form IV-A.

(2) The return to be furnished under sub-section (2) of section 28A of the Act shall be in Form IV-B.

10D. *Charging Assets.*—An insurer may subject the assets forming his controlled fund, not being securities kept invested in pursuance of sub-section (1) of section 27, to a charge in favour of a banking company for the purpose of raising an over-draft, and investing the money so raised ;

Provided that the assets charged do not exceed in value 10 per cent of the controlled fund and the charge is created for a period not exceeding six months".

IV. After Rule 12, the following heading and Rules shall be inserted, namely :—

"COMMITTEES OF THE INSURANCE COUNCILS.

12A. *List of Insurers.*—The Controller shall cause to be published in the *Gazette of India* a list of the members and associate members of the Life Insurance and General Insurance Councils of the Insurance Association of India once every year in the month of January.

12B. *Constituencies of Insurers.*—(1) Members of the Insurance Association of India who are insurers carrying on life insurance business and having a premium income in such business of more than three lakhs of rupees in the preceding year shall elect four individuals as members of the Executive Committee of the Life Insurance Council of the Insurance Association of India in the following manner :—

(*a*) one individual by such members as have their head offices in the Calcutta area ;

(*b*) two individuals by such members as have their head offices in the Bombay area ;

(*c*) one individual by such members as have their head offices in the Delhi and Madras areas, the members in each area alternately electing the individual, the first election being held in the Delhi area.

(2) Members of the Insurance Association of India who are insurers carrying on life insurance business and having a premium income in such business of less than three lakhs of rupees in the preceding year shall elect four individuals as members of the Executive Committee of the Life Insurance Council of the Insurance Association of India in the following manner :—

(*a*) one individual by such members as have their head offices in the Calcutta area ;

(*b*) one individual by such members as have their head offices in the Bombay area ;

(*c*) one individual by such members as have their head offices in the Madras area ;

(*d*) one individual by such members as have their head offices in the Delhi area.

(3) Members of the Insurance Association of India who are insurers carrying on general insurance business shall elect eight individuals as members of the

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Executive Committee of the General Insurance Council of the Insurance Association of India in the following manner :—

(*a*) one individual authorised to stand as a candidate by a member having his head office in the Calcutta area and whose premium income in such business in the preceding year exceeded ten lakhs of rupees and elected to the Committee by such members as have their head offices in the Calcutta area ;

(*b*) one individual authorised to stand as a candidate by a member having his head office in the Calcutta area and whose premium income in such business in the preceding year did not exceed ten lakhs of rupees and elected to the Committee by such members as have their head offices in the Calcutta area ;

(*c*) two individuals each of whom is authorised to stand as a candidate by a member having his head office in the Bombay area and whose premium in such business in the preceding year exceeded five lakhs of rupees and elected to the Committee by such members as have their head offices in the Bombay area ;

(*d*) two individuals each of whom is authorised to stand as a candidate by a member having his head office in the Bombay area and whose premium in such business in the preceding year did not exceed five lakhs of rupees and elected to the Committee by such members as have their head offices in the Bombay area ;

(*e*) one individual elected to the Committee by such members as have their head offices in the Madras area ,

(*f*) one individual elected to the Committee by such members as have their head offices in the Delhi area.

(4) For the purpose of this rule if any dispute arises as to which area an insurer belongs, or as to the premium income of an insurer, the Controller shall decide the question and his decision shall be final.

Explanation.—In this rule (1) "preceding year" means the calendar year preceding the calendar year in which the election takes place.

(ii) "premium income" means the gross direct premium income of the insurer without taking into account premium income on reinsurances accepted or ceded."

12C. *Duties of Dissolved Executive Committees.*—When the Executive Committee of the Life Insurance Council or of the General Insurance Council is dissolved, the outgoing members thereof who continue to hold office until a new executive Committee is constituted, shall be entitled to discharge the following duties in the meantime :—

(*a*) keep and maintain up-to-date a copy of the list of all members and associate members of the Life Insurance Council or the General Insurance Council, as the case may be ;

(*b*) supervise the work of offices and servants employed by the Committee ;

(*c*) Collect the prescribed fees ; and

(*d*) help the Chairman and the Secretary to conduct the necessary elections to the new Executive Committee.

12D. *Joint Meetings of Executive Committees.*—(1) When a request is received by the Central Government from

(*a*) the Controller of Insurance, or

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(b) six individuals who are members of either or both of the Executive Committees of the Life Insurance Council and the General Insurance Council, or

(c) thirty insurers

that a joint meeting of the two Executive Committees should consider a matter specified in the request, the Central Government may, on being satisfied that the matter is one of common interest to the two Executive Committees, direct that a joint meeting of the two Executive Committees be convened to consider the matter.

(2) It shall be the duty of the Chairmen of the two Executive Committees to convene, as soon as may be after the issue of the direction under preceding sub-rule a joint meeting of all the members of the two Executive Committees at such place and at such time and date as the two Chairmen may decide.

(3) At such meeting, one of the two Chairmen shall be elected by the members present to preside and the matter referred to and no other matter shall be considered.

(4) The meeting may be adjourned from time to time to be held not necessarily at the same place, with the consent of the members present for further consideration of the matter or for considering a report from any sub-committee appointed for the purpose by the members present, but minutes of each meeting shall be kept and a copy thereof shall be furnished to the Controller of Insurance immediately after the meeting."

V. In Rule 14 (7) for the figure and letter "IV-A" the figure and letter "IV-C" shall be substituted.

VI. For Rules 16-17A inclusive, the following headings and Rules shall be substituted, namely :—

"LICENSES AND CERTIFICATES

16. *License fee for insurance agents and collection thereof.*—The fee for obtaining or renewing a license to act as an insurance agent shall be Rs. 5 provided that an additional fee of Rs. 2 shall be paid if the application for the renewal of the license does not reach the Controller at least 30 days before the date on which the license ceases to remain in force.

16A. *Issue of licenses to insurance agents.*—An individual who desires to obtain or renew a license to act as an insurance agent shall proceed as follows :—

(a) He shall obtain from the Controller of Insurance a form of application for a license which form shall be as prescribed in Form V or V-A. Form V shall be used where the applicant applies for a license for the first time or for a fresh license, while form V-A shall be used when the applicant applies for the renewal of the license already held by him.

(b) He shall then send to the Controller of Insurance the completed application form with the fee which shall be paid in the form of stamps to the value of Rs. 5 or Rs. 7, as the case may be, and the stamp shall be affixed to the application in the proper place.

(c) The Controller of Insurance of the officer authorised by him under sub-section (1) of section 42 of the Act shall, after taking all reasonable steps to satisfy himself that the application is in order and that the applicant is not disqualified from holding a license, issue a license to him. The license shall be in Form V-B attached to the application form in Form V or V-A as the case may be. No application shall be considered by the Controller of Insurance unless the particulars required to be filled in by the applicant in Form V-B have been filled in by him.

(d) No application for the renewal of license will be accepted if it reaches the Controller on or after the date on which the licence ceases to be in force:

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Provided, however, that if an applicant desires that his application should be considered under the proviso to sub-section (3A) of section 42 of the Act, he shall forward along with such application a request to that effect, with stamps to the value of Rs. 30 affixed thereon and a statement of all the facts and particulars which are to be taken into consideration by the Controller for the purpose of examining whether undue hardship would be caused if no renewal of licence is granted :

Provided further that the applicant if required to do so by the Controller, shall furnish documentray proof of any of the particulars or facts mentioned in the statement referred to above.

16B. *Bona fide insurance agents for the purposes of section* 41.—The conditions to be satisfid by an insurance agent to establish that he is a *bona fide* insurance agent employed by the insurer for the purposes of the proviso to sub-section (1) of section 41 of the Act shall be the following namely :—

(*a*) He must have secured policies on six different lives excluding his own.

(*b*) He must have been an insurance agent continuously from the time of his soliciting or procuring the first policy on each of such six lives or proposing for the policy on his own life, whichever is earlier, till the time when the policies on those six lives and the policy on his own life have all been issued.

16C. *Fee for Principal, Chief and Special Agents.*—The fee for obtaining or renewing a certificate to act as a principal agent or chief agent shall be Rs. 25 and the fee for obtaining or renewing a certificate to act as a special agent shall be Rs. 10.

Provided that an additional fee of Rs. 5 in the case of a principal agent or a chief agent, and Rs. 3 in the case of a special agent, shall be paid, if the application for renewal of the certificate reaches the Controller on or after the date on which the certificate ceases to be in force but within 12 months of the aforesaid date.

16D. *Issue of certificates to Principal, Chief and Special Agents.*—A person who desires to obtain or renew a certificate to act a principal agent, or chief agent or special agent, shall proceed as follows :—

(*a*) He shall obtain from the Controller a form of application for a certificate which form shall be as prescribed in Form V-C or Form V-D. Form V-C shall be used when an applicant applies for a certificate for the first time, or for a fresh certificate, while Form V-D shall be used when the applicant applies for the renewal of the certificate already held by him. No application for the renewal of a certificate will be accepted if it reaches the Controller after a period of 12 months from the date on which the certificate ceases to be in force.

(*b*) He shall then send to the Controller the completed application form with stamps to the value of Rs. 25 or Rs. 30 or Rs. 10 or Rs. 13 as the case may be, affixed thereon in the proper place.

(*c*) The Controller or the officer authorised by him under sub-section (1) of section 42A of the Act shall, after taking all reasonable steps to satisfy himself that the application is in order and that the applicant is not disqualified from holding a certificate, issue a certificate in Form V-E.

16E. *Issue of duplicate licenses and certificates.*—(*a*) A person to whom a license or a certificate has been issued shall, if such license or certificate has been lost, destroyed or mutilated, submit to the Controller an application requesting the issue of a duplicate license or certificate with a fee of Re. 1 in the case of a license, and Rs. 2 in the case of a certificate; paid in the form of stamp duly affixed thereon and with a declaration giving full details regarding the issue and loss, destruction or mutilation of the license or certificate, and the mutilated pieces, if any, shall be returned to the Controller with the said application.

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(*b*) The Controller, after satisfying himself that the original license or certificate has been lost, destroyed, or mutilated, issue a duplicate license in Form V-B or a certificate in Form V-E as the case may be, with an endorsement thereon that it is a duplicate.

16F. *Description of stamp.*—Any fee specified in Rules 16, 16A, 16C, 16D and 16E shall be paid in the form of "Government of India Insurance" stamps available from a Government Treasury.

16G. *Allowance for unused stamps.*—Where an applicant for a license or a certificate has inadvertently used 'Government of India Insurance' stamp of a greater value than is necessary or where no license or certificate in respect of an application bearing such stamp has been issued, refund may be made of the excess of the necessary fee or of the value of the stamp, as the case may be, on such application.

16H. *Cancellation of licences or certificates.*—Where the Controller cancels the license of an insurance agent under sub-section (5) of section 42 or the certificate of a principal or chief or special agent under sub-section (4) of section 42A, he shall—

(*a*) inform all the officers authorised by him under sub-section (1) of section 42 or 42A that the license or the certificate, as the case may be, has been cancelled ;

(*b*) require the person concerned to return the license or certificate issued to him ; and

(*c*) cause the fact of cancellation to be published in the *Gazette of India* and in such State Gazette or Gazettes as he deems fit.

SHARES, OWNERSHIP AND DISPOSAL.

17. *Declaration as to the nature of ownership of shares.*—The declaration to be furnished by a transferee in pursuance of clause (b) (i) of sub-section (4) of section 6A of the Act to a public company limited by shares having its registered office in the States and carrying on life insurance business shall be in Form V-F.

17A. *Declaration as to beneficial interest in shares.*—The declaration to be made in pursuance of sub-section (5) of section 6A of the Act to a public company limited by shares having its registered office in the States and carrying on life insurance business by a person who has any interest in any of its shares standing in the name of another person shall be in Form V-G.

17B. *Disposal of shares by Administrator-General.*—As soon as the Administrator-General of a State has taken charge of any shares of a public company vesting in him under sub-section (8) of section 6A of the Act, he shall furnish full details of the shares to the Controller and he shall try, as soon as may be, to sell the shares, whether as a whole or in part or whether in the open market or by private sale, at a price not lower than the price fixed by the Controller who may vary the price fixed from time to time. The proceeds shall be handed over to such person as, in the opinion of the Administrator-General, is by law entitled thereto.

LIMITATION OF EXPENSES OF MANAGEMENT.

17C. *Statement on the Bases of Premiums.*—(1) The statement of the bases of premiums under sub-section (1) of section 40B of the Act shall be in Form V-H.

(2) In respect of premiums currently used by an insurer at the commencement of the Insurance (Amendment) Act, 1950, the statement of the bases of premiums certified by an actuary shall be furnished to the Controller within six months from such commencement.

(3) A statement on the bases of premiums to be newly used after such commencement certified by an actuary shall be furnished to the Controller before such premiums are offered by the insurer to prospective policy holders.

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17D. *Limitation of expenses of management in life insurance business.*—After the 31st day of December, 1950, no insurer shall, in respect of the life insurance business transacted by him in India, spend as expenses of management in any calendar year an amount exceeding the aggregate sum of—

(i) five per cent. of all premiums received during the year on policies granting an immediate annuity or a deferred annuity in consideration of a single premium, and five per cent. of all premiums received on other single premium policies during the year;

(ii) ten per cent. of all first year's premiums and four per cent. of all renewal premiums received during the year on policies granting deferred annuity in consideration of more than one premium;

(iii) one-twentieth of one per cent. of the total sum assured by policies on which no further premiums are payable;

(iv) one per cent. of all annuities paid during the year;

(v) an amount computed on the basis of the percentages for the time being appropriate to the duration of the insurer's life insurance business specified in the following table, namely :—

Duration of insurers' life insurance business	Percentage of premiums (less reinsurance) received during the year	
	of first year's premiums	of renewal premiums
First four year	100	20
Fifth to seventh years	96½	19
Eighth to tenth years	93	18
After the tenth year, if the insurer's business in force—		
(*a*) is less than two crores of rupees ...	90	18
(*b*) is less than five crores of rupees but not less than two crores of rupees.	90	17
(*c*) is less than ten crores of rupees but not less than five crores of rupees.	90	16
(*d*) is not less than ten crores of rupees ...	90	15

Provided that the percentages specified in the above table shall in respect of any first year's premium where the maximum premiums paying period under the policy is not throughout life nor more than eleven years, be reduced to a number equal to seven and a half times the number of whole years in that period.

Explanation.—In this rule, "business in force" means, in relation to any expense incurred, the total sum assured, with bonuses, without taking into account reinsurances ceded or accepted, by an insurer in respect of the whole of his life insurance business on the last working day of the year preceding the calendar year in which the expense is incurred.

17E. *Limitation of expenses of management in general insurance business.*—(1) After the 31st day of December 1949, no insurer shall in respect of general insurance business transacted by him in India other than marine insurance business, spend in

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any calendar year as expenses of management, including commission or remuneration for procuring business an amount exceeding the sum of—

(i) the amount of commission or other remuneration paid to insurance agents and principal agents in respect of that business transacted in the year but not exceeding 15 per cent of the gross premium income written direct in India in respect of that business in the year ; and

(ii) an amount computed on the bases of the percentages appropriate to the various parts of total gross premium income written direct in India during the year :

Part of the total gross premium income of the insurer written direct in India (Fire and Miscellaneous business combined)	Percentage of premiums
First 10 lakhs of rupees	35
Next 5 lakhs of rupees	32½
Next 5 lakhs of rupees	30
Next 7½ lakhs of rupees	27½
Next 7½ lakhs of rupees	25
Next 10 lakhs of rupees	22½
The balance	20

(2) After the 31st day of December 1949, no insurer shall, in respect of marine insurance business transacted by him in India, spend in any calendar year as expenses of management, including commission or remuneration for procuring business an amount exceeding the sum of—

(i) the amount of commission or other remuneration paid to insurance agents and principal agents in respect of that business transacted in the year but not exceeding in amount ten per cent of the gross premium income written direct in India in respect of that business in the year ; and

(ii) an amount computed on the basis of percentages appropriate to the various parts of his total gross premium income written direct in India during the year :

Part of the total gross premium income of the insurer written direct in India	Percentage of premiums
First 5 lakhs of rupees	25
Next 5 lakhs of rupees	22½
Next 5 lakhs of rupees	20
Next 7½ lakhs of rupees	17½
The balance	15

(3) Notwithstanding anything contained in sub-rules (1) and (2), an insurer may during the first ten years of his general insurance business, spend in any calendar year as expenses of management including commission or remuneration for

procuring business an additional amount, in respect of his general insurance business, not exceeding—

(i) during the first three years, the interest earned on the paid-up capital in that year;

(ii) during the second period of three years, an amount equal to 10 per cent, of the gross premium income written direct in India or to the interest earned on the paid-up capital in the year, whichever is less;

(iii) during the seventh and eighth years an amount equal to 5 per cent of the gross premium income written direct in India, or to three-fourths of the interest earned on the paid-up capital in that year whichever is less: Provided that nothing in this clause shall apply to regulate the expenses of an insurer in any such year if his gross premium income in that year exceeds twenty-five lakhs of rupees;

(iv) during the ninth and tenth years an amount equal to 3 per cent of the gross premium income written direct in India, or to half of the interest earned on the paid-up capital in that year whichever is less: Provided that nothing in this clause shall apply to regulate the expenses of an insurer in any such year if his gross premium income in that year exceeds twenty-five lakhs of rupees.

Explanation.—For the purposes of this rule, where two or more insurers carry on general insurance business, to one of whom the other or each of the others stands in the relation of a subsidiary company within the meaning of the Indian Companies Act 1913, the percentages specified in this rule shall be deemed to be the percentages of the aggregate premiums of the two insurers or all the insurers as the case may be and the insurers together shall not spend as expenses of management anything in excess of the limits specified herein.

17F. *Head Office expenses.*—The share of the Head Office expenses in the case of an insurer having his principal place of business outside India for the purposes of sections 40B and 40C of the Act shall not be less than—

(i) in respect of life insurance business 10 per cent of the first year's premium as shown in the revenue account, and 1 per cent of the renewal premiums as shown in the revenue account in respect of that business transacted in India during the year; and

(ii) in respect of general insurance business 5 per cent of the gross premium income written direct in India during the year in respect of that business.

CONTRAVENTION OF LIMITATION OF EXPENSES AND TARIFF REGULATIONS.

17G. *Action against Extravagant Life Insurers.*—(1) If it appears from the report of an actuarial valuation under sub-section (3) of section 64K of the Act read with the statutory returns relating to accounts that the insurer concerned is insolvent, the Controller may cancel the registration of such insurer and request the Executive Committee of the Life Insurance Council to consider whether in the circumstances of the case it is possible to have the business of the insurer reconstructed or whether some other insurer is willing to take over the business.

(2) When such a request is received, the Executive Committee of the Life Insurance Council shall meet not later than one month of the receipt of such request to consider the matter and within 7 days of such meeting shall communicate its decision to the Controller.

(3) If the Executive Committee is unable to meet within the time specified in sub-rule (2) or is unable to suggest any practical steps for the reconstruction or

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transfer, the Controller may as soon as may be, apply to the Court for the winding up of that insurer.

(4) If the valuation under sub-section (3) of section 64K does not disclose the insurer to be insolvent, the actuary making the investigation shall append to his report a statement whether an encroachment on the bonus loadings contained in the premiums has occurred and whether such encroachment is due either partly or wholly to heavy expenses incurred by the insurer after giving credit for any profits made in other directions. The Controller may request the Executive Committee of the Life Insurance Council for advice so that such encroachment may neither continue nor recur and the Executive Committee shall meet within a month of the receipt of such request and make such recommendations as it deems fit.

(5) On receipt of the recommendations referred to in sub-rule (3) or sub-rule (4) the Controller may issue such directions to the insurer concerned as he deems fit and if the insurer complies with such directions, the cancelled registration may be revived wherever possible or where it is not so possible, the insurer may be registered afresh.

(6) If the directions are not complied with, the Controller may apply to the Court for the winding up of the insurer.

17H. *Action against Extravagant General Insurers.*—(1) In pursuance of sub-section (3) of section 64M of the Act, the Controller may :—

(*a*) cancel the registration of the insurer under the Act, and

(*b*) request the Executive Committee of the General Insurance Council to consider practical steps for the reconstruction of the insurer concerned or for transferring its business to some other insurer.

(2) When such a request as is referred to in the preceding sub-rule is received by the Executive Committee of the General Insurance Council, it shall meet not later than one month of the receipt of such request to consider the request and within 7 days of such meeting shall communicate its decision to the Controller.

(3) The Controller may, after considering the recommendations of the Executive Committee in this behalf apply to the court for the winding up of the insurer concerned if he thinks fit.

17I. *Regional Councils and Committees.*—(1) The General Insurance Council may constitute one Regional Council for each of the Bombay, Calcutta, Delhi and Madras areas.

(2) Any Regional Council so formed shall consist of seven individuals at least four of whom shall be elected by the members of the Insurance Association of India carrying on general insurance business in that area.

(3) Under any such Regional Council there shall be a separate Sectional Committee for each of the three classes of insurance, *viz.*, fire, marine and miscellaneous, and each such Committee shall consist of seven individuals, of which at least four shall be elected by members of the Insurance Association of India carrying on that class of general insurarce business in that area.

17J. *Penalties for Tariff Breaches.*—(1) Where an insurer is guilty of contravening any regulations made under sub-section (1) of section 64O the Tariff Committee of the General Insurance Council may, after considering the nature and gravity of such contravention, take one or more of the following courses of action against such an insurer :—

(*a*) Administering a censure or warning in addition to correction of the defect or cancellation of the policy ;

(*b*) imposing a fine not exceeding Rs. 1,000 ; and

(c) disqualifying him for a limited period not exceeding three years from voting at any election to the Executive Committee, to the Regional Councils or to the Sectional Committees of the Regional Councils.

(2) Where an insurer has been subjected to any penal action under (b) or (c) above, he may appeal to the Central Government within 30 days of the taking of such penal action.

17K. *Appeal by Agents against Disciplinary Action.*—(1) A principal agent or an insurance agent who has been restrained by any Regional Council or any Committee thereof under sub-section (3) of section 64Q of the Act from procuring or causing to be procured general insurance business from any area, may appeal to the Central Government within thirty days of the imposition of such restraint on him.

(2) The Central Government may for the purpose of disposing of any appeal under this rule require such information supported by documentary proof wherever possible from the agent concerned as it may require."

VII, After Rule 24, the following Rules shall be inserted, namely:—

"24A. *Fees payable on referring Disputed Claims to Controller.*—(1) The fee payable at the time of referring to the Controller a dispute relating to the settlement of a claim on a policy of life insurance under sub-section (1) of section 47A of the Act is rupees ten or one rupee for each hundred rupees or part thereof of the amount of the claim (including any profit or bonus), whichever is greater.

(2) Any fee specified in this rule shall be paid in the form of 'Government of India Insurance Agent License Fee' stamps available on payment from a Government Treasury and the stamp shall be affixed on the application or letter referring the dispute to the Controller and superscribed with the signature of the claimant.

24B. *Fees payable to the Councils.*—(1) The fees payable by a member or associate member who is an insurer carrying on life insurance business to the Life Insurance Council in each calendar year shall be computed according to the premium income from life insurance business in the manner specified in items (i) to (vi) in sub-rule (2) of rule 24.

(2) The fees payable by a member or associate member who is an insurer carrying on general insurance business to the General Insurance Council shall be computed according to the total premium income from all classes of general insurance business in the manner specified in items (i) to (vi) of sub-rule (2) of rule 24.

(3) Any fee specified in this rule shall be paid into the Bank or where there is no office of the Bank, into the Imperial Bank of India acting as the Agent of that Bank or into any Government Treasury for credit under the head 'XXXVI—Miscellaneous Departments—Miscellaneous Fees realised under the Insurance Act, 1938' and the receipt shall be sent to the Secretary of the Executive Committee concerned."

VIII. After Rule 29, the following Rules shall be inserted, namely:—

"30. *Activities of Insurers.*—(1) An insurer may do all acts necessary for making investments permissible under the Act for the protection of such investments and for the realisation of such investments and may in that connection take over and administer mortgaged property until a suitable occasion arises for its disposal.

(2) An insurer carrying on general insurance business may act as the manager in charge of a branch office of another insurer in respect of general insurance business.

31. *Statement of Emoluments.*—The Statement of emoluments exceeding Rs. 5,000 to be furnished under sub-section (2) of section 31B shall be in Form XV.

32. *Payment where Nominee is a minor.*—(1) The holder of a policy of life insurance may, in any case where the nominee is a minor, appoint at the time of making a nomination any person to receive the money secured by the policy in the event of his death during the minority of the nominee, and communicate such appointment to the insurer concerned by forwarding the documents relating to such appointment which should be endorsed by the appointee to show his consent thereto :

Provided that in the case of a nomination made before the commencement of the Insurance (Amendment) Act, 1950, and subsisting at such commencement, the appointment may be made and communicated in the manner aforesaid within six months after such commencement.

(2) Any such appointment in order to be effectual shall unless incorporated in the text of the policy itself, be made by an endorsement on the policy.

(3) Any such appointment may at any time before the policy matures for payment be cancelled or changed by an endorsement or further endorsement, as the case may be and communicated to the insurer.

33. *Summary of Balance Sheet and Revenue Account.*—The summary to be published in pursuance of section 100 of the Act shall be in Form XVI".

B. In the Schedule annexed to the said Rules,—

I. Form IV-A shall be renumbered as Form IV-C and before that Form as so renumbered the following forms shall be inserted, namely :—

"FORM IV-A

[*See* Rule No. 10(c) (1)]

Returns of investments of the Controlled Fund of the ..... *Insurance Company Limited* ..... *as at* ..... 19 ..... [See *section* 28A(1).]

(*Please see the note appended to the form*)

Part A. (Investments approved under Section 27A (1) of the Insurance Act.)

(1) Government securities and other securities charged on the revenues of the Central Government or of the Government of a Part A State or guaranteed fully as regards principal and interest by the Central Government or the Government of any Part A State and securities issued or guaranteed fully as regards principal and interest by the Government of a Part B State and specified as approved securities by the Central Government.

Full description of the security	Date of Purchase	Date of Maturity	Rate of Interest	Face value	Book value	Market value	Remarks

(2) Approved securities other than those referred to in item (1) above [*See* Section 2(3).]

Full description of the security	Date of Purchase	Date of Maturity	Rate of Interest	Face value	Book value	Market value	Remarks

(3) Securities guaranteed fully as regards principal and interest by a Provincial Government in Pakistan or charged on the revenues of any part of that Dominion and debentures or other securities for money issued by or on behalf of the Port of Karachi and satisfying the requirements of Rule 10A of the Insurance Rules.

Full description of the security	Date of Purchase	Date of Maturity	Rate of Interest	Face value	Book value	Market value	Remarks

(4) Securities issued by the Government of any country outside India.

Full description of the security indicating the name of the country	Date of Purchase	Date of Maturity	Rate of Interest	Face value	Book value	Market value	Remarks

(5) Debentures or other securities for money issued with the permission of the State Government by any Municipality in a State. [*See* Section 27-A(1)(c)].

Full description of the debenture or security	Date of Purchase	Date of Maturity	Rate of Interest	Face value	Book value	Market value	Remarks

(6) Debentures or other securities for money issued by any authority constituted under any housing or building scheme approved by the Central Government or a State Government or by any authority or body constituted by any Central Act or Act of a State Legislature.

[*See* Section 27-A(1)(d)]

Name of the housing or building scheme	Name of the Government approving the scheme or the Act under which the scheme is constituted	Date of investment	Maturity date of the debentures or security	Rate of Interest	Face value	Book value	Market value	Remarks

(7) First Mortgages on immovable property situated in India under any housing or building Scheme of the insurer approved by the Central or a State Government.

[*See* Section 27-A(1)(e)]

Location of the property	Value of the property (date of last valuation of the property)	Amount advanced	Date of advance	Rate of Interest	Name of the State approving the scheme and date of approval	Amount outstanding		Remarks
						Principal	*Interest	

* To be stated if outstanding for more than *one* year.

(8) Debentures secured by a first charge on any immovable property, plant or equipment, of any company which has paid interest in full for five years immediately preceding or for at least five out of the six or seven years immediately preceding on such or similar debentures issued by the company.

[*See* Section 27-A(1)(f)]

Name of the Company	Date of issue of debentures	Date of purchase by the insurer	Whether the charge is on property, plant or equipment	Rate of Interest	Face value	Book value	Market value	Remarks

(9) Debentures secured by a first charge on any immovable property, plant or equipment of any company where, either the book value or the market value, whichever is less, of such property, plant or equipment is more than three times the value of the debentures.

[*See* Section 27-A(1)(g)]

Name of the Company	Date of purchase	Date of Maturity of the debentures	Rate of Interest	Face value	Book value	Market value	Remarks

(10) First Debentures secured by a floating charge on all the assets of any Company which has paid dividends on its ordinary shares for the five years immediately preceding or for at least five years out of the six or seven years immediately preceding.

[*See* Section 27-A(1)(h)]

Name of the Company	Date of purchase by the insurer	Date of Maturity of debentures	Rate of Interest	Face value	Book value	Market value	Remarks

(11) Preference shares of any company which has paid dividends on its ordinary shares for the five years immediately preceding or for at least five out of the six or seven years immediately preceding.

[*See* Section 27-A(1)(i)]

Name of the Company	Date of purchase by the insurer	Rate of Interest	Face value	Book value	Market value	Remarks

(12) Preference shares of any company on which dividends have been paid for the five years immediately preceding or for at least five out of six or seven years immediately preceding and which have priority in payment over all the ordinary shares of the company in winding up.

[*See* Section 27 A (1) (j)]

Name of the Company	Date of purchase	Rate of Interest	Face value	Book value	Market value	Remarks

(13) Shares of any company guaranteed by another company such other company having paid dividends or its ordinary shares for the five years immediately preceding or for at least five out of the six or seven years immediately preceding.

[*See* Section 27 A (1) (k)]

Name of the Company	Name of the guaranteeing company	Date of purchase	Face value	Book value	Market value	Whether proviso to Sec. 27-A (1) (k) complied with	Remarks

(14) Shares of any company on which dividends of not less than four per cent, including bonus have been paid for seven years immediately preceding or for at least seven out of the eight or nine years immediately preceding.

[*See* Section 27A (1) (*l*)]

Name of the Company	Date of purchase	Face Value	Book Value	Market Value	Remarks

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(15) First Mortgages on immovable property situated in the States or in any country where the insurer is transacting insurance business.

[*See* Section 27A (1) (m)]

Situation of the property and name of the owner	Whether land or buildings or both	Whether land is lease-hold or free-hold	Outstanding period of the mortgage if property is lease-hold	Outstanding period term of the lease, if the property is lease-hold	Type of mortgage	Date of mortgage	Value of the land

Value of the Buildings	Date of last valuation of the property and name of the Valuer	Amount advanced on the Mortgage		Rate of Interest	Outstanding amount		Remarks
		Land	Buildings		Principal	Interest	

(16) Immovable Property situated in the States or in any country where the Insurer is transacting insurance business.

[*See* Section 27 A (1) (n)]

Situation of the property	Land of Building or both	Whether land is lease-hold or free-hold	Date of purchase	Amount invested by the insurer	Net Annual Rental Value of the property *i.e.* net of taxes, maintenance, depreciation etc.	Whether free from all encumbrances	Remarks

(17) Loans on life insurance policies within their surrender value issued by the insurer or by another insurer whose business he has taken over and in respect of which business he has assumed liability.

[*See* Section 27A (1) (o)]

Amount of Loan outstanding on the date	Advance under automatic Non-forfeiture scheme of the insurer	Remarks

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(18) Life Interests and Loans on Life interests.

[*See* Section 27A (1) (o) (and (p)]

Date of purchase or grant of loan on life interest	Value of the Life Interest	Purchase price or Amount of Loan	Whether the transaction is covered by any life policy	Whether the Value is certified by an actuary	Remarks

(19) Fixed deposits with Banks included in the second Schedule to the Reserve Bank of India Act, 1934, or Co-operative Societies registered under the Indian Co-operative Societies Act, 1912 or any other law for the time being in force the primary object of which is to finance Co-operative societies similarly registered.

[*See* Section 27A (1) (q)]

Name of the Bank or Co-operative Society with addresses	Date of Deposit	Rate of Interest	Period of deposit	Amount of deposit	Whether section 27A (9) satisfied	Whether proviso to section 27A(9)attracted	Remarks

(20) Shares and Debentures of Co-operative Societies registered under the Indian Co-operative Societies Act, 1912, or any other law for the time being in force.

[*See* Section 27A (1) (r)]

Name and address of Society	Date of purchase	Date of maturity of Debentures	Shares			Debentures			Remarks
			Face Value	Book Value	Market Value	Face Value	Book Value	Market Value	

(21) Other investments notified under Clause (s) of sub-section (1) of section 27A.

Description of the investment	Date of Purchase	Face Value	Book Value	Market Value	Interest or dividend paid last	Remarks

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PART B

(Relating to investments held invested under Section 27A (2) of the Insurance Act in respect of which a resolution has been adopted in terms of that Section).

Rs,

(1) 15 per cent of the sum referred to in sub-section (1) of section 27 of the Insurance Act estimated as at the date of this turn.

(2) Particulars of investments--

Name of the company whose shares or debentures are held by the insurer and description of investments	Date of purchase	Date of maturity	Face Value	Book Value	Market Value	Names of Directors of the insurer interested in the investment	Extent of interest of Directors	Whether Section 27 A (3), (4) and (5) satisfied	Remarks
Total									

PART C

Particulars of investments other than those shown in Part A, Part B and Part D and not satisfying the requirements of sub-sections (1) and (2) but complying with the requirements of sub-sections (3) and (4) of Section 27A.

Full description of the investment (including the name of the Co.)	Date of Investment	Face Value	Book Value	Market Value	Names of the Directors of the Insurer interested in the Investment	Extent of interest of Directors	Remarks

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PART D

Particulars of investments not satisfying the requirements of sub-section (3) and (4) of Section 27-A.

I

Full description of the Investment (including the name of the Company in which invested)	Total value of the Investment	Amount held invested in excess of the requirements of				Date of investment	Names of the directors of the insurer who are interested in the investment	Extent of each director's interest in the Company	If the Investment is shown in Part A or Part B of the statement indicate it by cross reference	Remarks
		Sub-section (3)		Sub-section (4)						
		Clause (a)	Clause (b)	Clause (a)	Clause (b)					

II

Particulars of Investments not satisfying the requirements of sub-section (5) of Section 27A.

Name of the Company	Date of Investment	Face Value	Book Value	Market Value	Names of Directors of Insurer interested in the private Company	Extent of Directors Interest	Remarks

I hereby certify that the particulars furnished in the return are true rnd complete to my knowledge.

Date.

Principal Officer.

NOTE TO FORM IV-A

I. (a) Market value of securities, debentures, shares, etc., should be ascertained from published quotations. Where published quotations are not available, it should be stated in the remarks column how the market values have been arrived at.

(b) If 'accrued interest' has been added to the market value, it should be so stated in the remarks column.

(c) In the case of shares and debentures of Companies, the location of the Companies should also be stated.

(d) In the case of mortgages of property and properties owned by the insurer, location of each property should be separately stated.

(e) In case of investments made on and after the 19th January 1950, the date of purchase should be given.

II. In respect of investments in Part A of the statement, investments which were approved at the time of the last statement but ceased to be so subsequently should be distinctly marked by double asterisks.

III. Investments held in deposit under section 7 or 98 if the Act should also be included in the return.

FORM NO IV-B.

[*See* Rule No. 10(c) (2).]

Return showing all the changes that occurred in the investments of the Controlled Fund of Insurance Company Ltd., during the quarter ending 19 .

[*See* Section 28A (2).]

(1) Purchases during the quarter ending 19

Full description of the investment	Date of Purchase	Purchase price	Face Value	Book Value	Market Value	State whether the investment complies with Sec. 27A (1)	State whether the additions to the existing holding if any would attract Sec. 27A (3) or (4)

(2) Sales during the quarter ending 19 .

Full description of the investment	Date of Sale	Sale Price	Amount realised by the Sale	Face value of investment sold	Book Value of the investment sold	Date of purchase of the investment now sold*	Purchase price of the investment now sold*

*To be given in the case of investments made after 19th January, 1950. If made before the said date it may be so stated in the columns. Also Note 1 (a) to 1 (d) on Form IV-A".

2. In Form V,— 320

(i) in item (5), for the words "state number", the words "state No. and date of expiry" shall be substituted.

(ii) for the words and figures "Government of India Insurance Agent Licence Fee Stamp for Rs. 1-8-0" the words and figures "Government of India Insurance Stamps for Rs. 5" shall be substituted;

B. In Note 3 appended to the Form, for the words "registered insurer" the word "insurer" shall be substituted.

3. In Form V-A—

(i) for the words "one year" that words "three years" shall be substituted;

(ii) for the words "Government of India Insurance agent Licence Fee Stamp (s) *vide* note 5", in the rectangle on the face of the form, the words "Government of India Insurance Stamp *vide* Note 5." shall be substituted.

(iii) for Note 5 appended to the Form, the following note shall be substituted, namely:

"5. The application should reach the Controller of Insurance before the expiry of the last licence held by the applicant but not more than three months before such expiry and "Government of India Insurance" Stamps for Rs. 5 should be affixed to it. If the application does not reach the Controller of Insurance at least 30 days before the date on which the last licence ceases to be in force, "Government of India Insurance" Stamp to the value of Rs. 2 should be affixed to the application by way of penalty. In this connection please also refer to the provisos to Rule 16A of the Insurance Rules, 1939".

4. Form VI shall be renumbered as Form V-B, and in the Form as so renumbered—

(i) for the words "one year", the words "three years" shall be substituted;

(ii) for Note 1, the following note shall be substituted, namely:

"1. If it is desired to renew this licence for a further period, the procedure laid down in rules 16 and 16A of the Issurance Rules, 1939, shall be followed, and an application for renewal should reach the Controller of Insurance before the licence expires. In this connection attention is also invited to the provisos to Rule 16A of the Insurance Rules, 1939".

5. After Form V-B the following forms shall be inserted, namely:

FORM V-C

Application for a certificate to act as a Principal/Chief/Special Agent.

[*See* Rule 16D (a).]

To

The Controller of Insurance,
Department of Insurance, Simla.

Dear Sir,

It is requested that a certificate to act as a Principal/Chief/Special Agent may be granted to me/our Firm/our Company. I/we am/are/will be working for ..... and the functions that will be entrusted to me/us are:.....

*2. It is hereby declared that— 321

(i) I/any partner of our Firm/any director of our Company have/has not been found to be of unsound mind by a court of competent jurisdiction;

(ii) I/any partner of our Firm/any director of our Company have/has not been found guilty of criminal misappropriation or criminal breach of trust, or cheating or forgery, or an abetment of or attempt to commit any such offence by a court of competent jurisdiction;

(iii) I/any partner of our Firm/any director of our Company have/has not been found guilty of or to have knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or an insured in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurer, and

(iv) I/any partner of our Firm/any director of our company am/is not a minor.

3. It is also declared that the particulars given below are true and that the certificate for which I/our Firm/our Company apply will be used only by myself/our Firm/our Company for causing insurance business to be solicited or procured.

(1) Full name of the applicant (in Block letters). *Individual / Company / Firm.	(1)
(2) Full address.	(2)
(3) (i) (In the case of a firm) the names of all the partners therein; (ii) (In the case of a company) the names of the directors.	(3)
(4) In the case of an individual. (a) date of birth in Christian Era. (b) Age on the date of application.	(4) (a) (b)
(5) Did the applicant ever apply for a certificate to act as a Principal/Chief/Special Agent before? If so state (a) Whether the certificate was granted, and in that case the No. and date of expiry of the last certificate;	(5) (a)
(b) Whether the certificate was refused. In that case the No. and date of the letter conveying refusal of the certificate;	(b)
(c) Whether the certificate was granted but subsequently cancelled. In that case the No. and date of the letter conveying cancellation of certificate;	(c)

N.B.—Replies to (a), (b) and (c) to be given only if the reply to the main query is in the affirmative.

Strike out portion not required. 328

Government of India Insurance Stamps

Principal Agent	Rs.	25/-
Chief Agent	Rs.	25/-
Special Agent	Rs.	10/-

(Please see notes below)

Name of place

Date

Yours faithfully,

(Signature of applicant)

NOTES

1. The attention of the applicant is drawn to section 104 of the Act, which provides that whoever in any document required for the purposes of any of the provisions of that Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

2. The fee for obtaining a certificate to act as a Principal Agent and a Chief Agent is Rs. 25 and the fee for obtaining a certificate to act as a Special Agent is Rs. 10.

3. The application should be filled in the English language.

4. Any correction or alteration made in any answer to the questions in the application should be initialled by the applicant.

5. Payment in cash or by money order, cheque, postal order, postage stamp or bank draft is not accepted and will be returned at the applicant's cost.

6. No acknowledgment of this application will be sent. If one is required, the application should be sent by registered post (acknowledgment due).

7. In the case of a special agent it is not necessary to state the functions entrusted to him.

FORM V-D

Application for renewal of certificate to act as a Principal/Chief/Special Agent.

[*See* Rule 16D (a)]

From

(Name of Principal/Chief/Special Agent)
(in block letters)

Full address

(In block letters)

To

The Controller of Insurance,
Department of Insurance, Simla.

Dear Sir,

Certificate No.
Date of expiry.

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It is requested that the above certificate may be renewed for a further period of one year.

*2. It is hereby declared that since the date of my/our Firm's/our Company's last application for a certificate—

(i) I/any partner of my firm/any director of our Company have/has not been found to be of unsound mind by a court of competent jurisdiction;

(ii) I/any partner of my firm/any director of our company have/has not been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a Court of competent jurisdiction;

(iii) I/any partner of my firm/any director of our company have/has not been found guilty of or to have knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or an insured in the course of any judicial proceednigs relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurer; and

(iv) My/our firm's/our company's certificate has not been cancelled at any time by the Controller of Insurance.

3. A certificate from the insurer for whom I am/we are working *viz.*,

(Name of Insurer)

to the effect that in the preceding calendar year the provisions of clauses 2 and 3 of Part A/clauses 2 and 4 of Part B of the Sixth Schedule to the Insurance Act, 1938, have been complied with by me/us is attached. The functions entrusted to me/us by the said insurer since the certificate was last renewed or issued were

4. It is also declared that the facts stated herein are true and that the certificate for which I/we hereby apply will be used only by myself/ourselves for causing insurance business to be solicited or procured.

*Strike out portion not required.

Government of India Insurance Stamp (s) *vide* note 5

Yours faithfully,

Dated the 1950 (Signature of the applicant.

NOTES

1. The attention of the applicant is drawn to section 104 of the Act, which provides that whoever in any document required for the purposes of any of the provisions of the Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

2. The name and the certificate No. given in the application should be identical with those shown in the last certificate held. If there is any subsequent change in the name, the reasons for the same should be stated furnishing documentary evidence for the same.

3. Any correction or alteration made in any answer to the questions in the application should be initialled by the applicant.

4. The application should be filled in in the English language.

5. The application should reach the Controller of Insurance not earlier than three months before, but not later than 12 months after the last certificate held by the applicant expires and a "Government of India Insurance Stamp" for Rs. 25 in the case of a principal agent or a chief agent and for Rs. 10 in the case of a special agent should be affixed to it.

An additional stamp for Rs. 5 in the case of a principal agent or a chief agent and Rs. 3 in the case of a special agent must be affixed, if the application reaches the Controller of Insurance on or after the date on which the last certificate held by the applicant ceases to be in force. Any application reaching the Controller of Insurance after a period of twelve months from the date, will be treated as an application for a fresh certificate.

6. Payment in cash or by money order, cheque, postal order, postage stamp or bank draft is not accepted and will be returned at applicant's cost.

7. No acknowledgment of this application will be sent. If one is required, the application should be sent by registered post (acknowledgment due).

8. In the case of a special agent it is not necessary to state the functions entrusted to him.

(*Not Transferable*).

FORM V-E.

GOVERNMENT OF INDIA

DEPARTMENT OF INSURANCE

Govt. Crest

CERTIFICATE No.

[See Rule 16D(c)]

CERTIFICATE TO ACT AS A PRINCIPAL/CHIEF/SPECIAL AGENT UNDER SECTION 42A OF THE INSURANCE ACT, 1938.

Name

Address

having paid the prescribed fee and having made the necessary declaration is hereby authorised to act as a Principal/Chief/Special Agent for one year from

Simla, dated the 19 .

Signature of Certificate holder.

Controller of Insurance.

B 25

The Certificate is not valid unless it bears a facsimile of the signature of the Controller of Insurance and the initials of a person authorised by him in this behalf and the signature of the certificate holder. The latter should put his signature as soon as the certificate is received.

NOTES

1. If it is desired to renew this certificate for a further period, the procedure laid down in Rule 16D of the Insurance Rules, 1939, shall be followed, and an application for renewal should reach the Controller of Insurance not earlier than three months before, but not later than 12 months after, the certificate expires.

2. No correction in this certificate will be valid unless initialled by the Controller of Insurance or a person authorised by him in this behalf.

FORM V-F.

(*See* Rule 17).

From

(Name)

(Occupation)

(Address)

To

The Directors

Insurance Co., Ltd.

In connection with my request for the transfer of Shares Nos. of your company to my name, I hereby solemnly declare that out of the above shares, I propose

(1) to hold Shares Nos. for my own benefit,

(2) to hold

(i) (a) Shares Nos. as a nominee.

(b) jointly with (Name and Address) for the benefit of

(Name) (Occupation)

(Address)

(ii) (a) Shares Nos. as a nominee.

(b) jointly with (Name and Address) for the benefit of

(Name)

(Occupation)

(Address)

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(iii) (a) Shares Nos. as a nominee.

(b) jointly with (Name and Address) for the benefit of

(Name)

(Occupation)

(Address)

(iv) (a) Shares Nos. as a nominee.

(b) jointly with (Name and Address) for the benefit of

(Name)

(Occupation)

(Address)

Made at A.M. on day the

P M.

at

Signature.

In the presence of (Witness) Signature

Name and Address.

NOTES

1. If the beneficial interest of any person is limited in extent in any way, the extent of beneficial interest should be clearly stated.
2. Strike off these words in cases where the nominee does not hold the shares jointly with any other person or persons.
3. Each beneficial ownership is to be stated separately.

FORM V-G

(*See* Rule 17A)

From

(Name)

(Occupation)

(Address)

To

The Directors

Insurence Co., Ltd.

In connection with shares Nos. of your company standing in your share register in the name of (name)

(occupation) (address) I hereby solemnly declare that out of the above shares,

(i) I am the sole beneficial owner of share Nos. and I acquired the beneficial interest before the commencement of the on the day of 195 Insurance (Amendment) Act, 1950.

(ii) in respect of shares Nos. I and (name) (occupation) (address) and (name) (occupation) (address) are joint beneficial owners, my interest in these shares being limited to and was acquired before the commencement of the Insurance (Amendment) Act, 1950. on the day of 19 .

Made on day the 19 at

In the presence of

(witness) Signature

Name and Address

Signature

I, of in whose name the shares Nos. of your company stand in your share register, hereby recognise in full the interest claimed in respect of the said shares and in token thereof have countersigned the above declaration.

Signed on the day of the 19

Signature.

In the presence of

(Witness) Signature

Name and Address

FORM V-H

(*See* Rule 170)

Statement of the bases of Premiums.

Name of the insurer

1. Basis :

Mortality

Rate of interest

Expenses

Bonus loading

The above basis is the basis underlying the premiums in Tables Nos. of the prospectus dated issued by Company Limited.

2. Basis :

Mortality

Rate of interest

Expenses

Bonus loading

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The above basis is the basis underlying the premiums in Tables Nos. of the prospectus dated. issued by Company Limited.

I hereby certify that the bases underlying the premium rates offered by Company Limited are as set out above.

Station

Actuary.

Date

NOTES

1. The premiums may be grouped according to bases and into as many groups as may be necessary and set out one group after another till all the premium tables and premiums offered outside the tables are covered.

2. If different bases have been used for different ages and terms in the same table of rates, these shoul be stated separately.

5. After Form XIV the following forms shall be inserted, namely :—

FORM XV

(*See* Rule 31)

Statement showing the emoluments (Salary or commission or both) paid by the Insurance Company Limited during the year ending 31st December.

(Please see notes below).

Sl. No.	Name, Qualification and address	Relationship if any, with General Manager, or any Director of the Co. with particulars thereof	Designation	Nature of any agreement with Co. and date of entering into such agreements	Nature of work done	Remuneration				Total of Columns (8), (9) and (10)
						Rate of Commission, if any	Amount of commission	Amount of salary	Allowance, etc.	
1	2	3	4	5	6	7	8	9	10	11

NOTE.—(1) In the case of an insurer specified in sub-clause (a) (ii) of sub-clause (b) of clause (9) of section 2, the statement should relate to all the insurance business transacted by him and in the case of any other insurer should relate to the insurance business transacted by him in India.

(2) Where the allowance exceeds 20 per cent of the salary or commission paid the nature and particulars of such allowance should be indicated.

(3) For the purpose of this statement all categories of agents are to be included provided the total remuneration paid exceeded Rs. 5,000 during the year to which the statement relates.

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FORM XVI

(*See* Rule 33)

Summary of balance sheet and revenue account of—company in respect of total business.

Revenue Account for the year ending.

Particulars	Rs.	Particulars	Rs.
Claim, annuities, surrenders and bonuses less reinsurances		Balance of Fund at the beginning of the year.	
Expenses of management including Commission.		Premiums and consideration for annuities, less reinsurances.	
Bad debts.		Interest, dividend and rents less Income-tax.	
Other items.		Other income.	
Balance of Fund at the end of the year.			
Total :—		Total .—	

Balance Sheet as at.....

	Rs.		Rs.
Life Insurance Fund.		Government securities.	
Other Funds.		Other Approved securities.	
Reserves.		Fictitious items and bad assets.	
Loans and Advances.		Other assets	
Outstanding claims.			
Other liabilities.			
Total.—		Total.—	

[No. 102-Ins. E/50.]

S. RANGANATHAN, Joint Secy.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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NOTIFICATION.

No. L. D. 2025—Legis. 5-50-17, Bangalore, dated 5th October 1950.

Ordered that the accompanying Notification No. F. 10/49—F. C. J., dated the 19th August 1950, amending the Supreme Court Rules, 1950 published in the *Gazette of India*, Part I, Section I, dated the 21st August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

SUPREME COURT OF INDIA

NOTIFICATION.

New Delhi, the 19th August 1950.

No. F. 10/49-F.C.J.—The following is published for general information :—

The Supreme Court of India, in the exercise of its rule-making powers, and with the rpproval of the President, hereby makes the following amendments to the Supreme Court Rules, 1950 :—

Add the following at the end of Order XLV, Part IX :—

"PART X

ORDER XLVI

Appeals and other proceedings transferred under clause (4) of article 374 of the Constitution.

1. Notwithstanding anything contained in the preceding Orders, the Rules contained in this Order shall apply to all appeals and other proceedings which stand transferred to the Supreme Court from the Judicial Committee of Hyderabad under clause (4) of article 374 and which are heard at Hyderabad.

2. (1) The Chief Justice may from time to time nominate two or more Judges to constitute a Division Bench to perform the duties assigned by these Rules to a Division Bench and nominate one of the Judges of the Court sitting at Hyderabad to perform the duties assigned to a single Judge or a Chamber Judge under these Rules.

(2) The sittings of the Division Bench and of the single Judge and a Chamber Judge shall be held at such place at Hyderabad as the Chief Justice may, from time to time, direct.

3. A single Judge sitting in Court shall have power to dispose of all pending applications ; and a Judge in Chambers may deal with all interlocutory applications :

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Provided that he may in his discretion adjourn any particular matter to the Division Court.

4. Notwithstanding any orders previously made in the course of the proceedings before the Judicial Committee of Hyderabad, every appeal pending before the Court sitting at Hyderabad shall be heard by a Division Bench consisting of not less than two Judges.

5. The Court sitting at Hyderabad shall have power to direct the hearing of any particular appeal or proceeding before it by the Court sitting at Delhi; and in the event of such a direction being given, the rules contained in the preceding Orders shall be applicable to such proceedings in their further stages, to the exclusion of the Provisions in this Order.

6. Notwithstanding anything contained in these Rules, including those in this Order, the Court sitting at Hyderabed shall have the power to give such directions and make such orders in procedural matters as may be necessary for the ends of justice or to prevent abuse of the process of the Court, in respect of the appeals and proceedings dealt with by it at Hyderabad.

7. The Court sitting at Hyderabad may permit the use of the Urdu language to such extent as it thinks fit in respect of proceedings or appeals pending before it:

Provided that the Judgments delivered, Decrees passed or Orders made by it shall be in the English language.

8. The Chief Justice shall determine the terms during which the Division Court is to sit at Hyderabad; and shall also fix the vacation for the Court sitting at Hyderabad:

Provided that the total period of vacation shall not exceed the period covered under rule 4 of Order II in Part I of these Rules.

9. The duties assigned to, and the powers exercisable by, the Registrar under the Rules of the Supreme Court, shall respectively be discharged and exercised in respect of all proceedings before the Court sitting at Hyderabad by the Deputy Registrar at Hyderabad.

10. The Deputy Registrar shall be the Taxing Officer of the Court sitting at Hyderabad; and in the Taxation of costs he shall generally be guided by the practice followed by the Judicial Committee of Hyderabad, unless the Court in disposing of a matter has ordered the payment of a lumpsum for costs.

11. Appeals and applications pending before the Court sitting at Hyderabad may be proceeded with at Hyderabad either by the party in person or, subject to the next succeeding rule, by a legal practitioner; the engagement of an Agent is dispensed with and a Senior Advocate may appear and plead without a Junior in respect of all such matters heard at Hyderabad.

12. The following classes of legal practitioners will be entitled to act or appear and plead before the Court sitting at Hyderabad:—

(a) Advocates who have been duly enrolled as Senior or other Advocates of the Supreme Court;

(b) In Criminal matters, legal practitioners who filed in the Registry of the Judicial Committee of Hyderabad their *Vakalatnama* before the 26th January 1950;

(c) Legal practitioners of the High Court of Hyderabad of not less than 10 years, standing who are specially permitted to do so by the Court sitting at Hyderabad on payment of a fee of Rs. 50.

13. It will not be obligatory for the parties to lodge in the said pending appeals a Statement of the case as provided in Rule 1 of Order XVIII, Part II, of these Rules.

14. In those civil cases in which the record has not so far been printed, the printing of the record, unless otherwise ordered by the Court, may be effected in accordance with the procedure previously obtaining in the Judicial Committee of Hyderabad. The record need not be printed in criminal cases, unless the Court otherwise directs".

By order of the Court,

P. N. MURTY,
Registrar, Supreme Court of India.

NOTIFICATION.

No. L.D. 2031—Legis. 3-50-54, Bangalore, dated 5th October 1950.

Ordered that the following Notification No. S. R. O. 178 and 179, dated 19th August 1950, amending the Government Premises (Eviction) Rules, 1950, and Territorial Army Rules, 1948, respectively published in the *Gazette of India*, Part II, Section 4, dated the 19th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

PART II—Section 4

Statutory Rules and Orders issued by the Ministry of Defence.

MINISTRY OF DEFENCE.

New Delhi, the 19th August 1950.

S.R.O. 178.—In exercise of the powers conferred by Section 10 of the Government Premises (Eviction) Act, 1950 (XXVII of 1950), the Central Government is pleased to direct that the following amendment shall be made in the Government Premises (Eviction) Rules, 1950, namely :—

For sub-rule (1) of rule 6 of the said Rules, the following sub-rule shall be substituted, namely :—

"(1) An appeal under Section 5 of the Act shall be addressed to the Secretary to the Government of India in the Ministry of Defence provided that where the appeal is against an order made by the Postmaster-General, Bombay or the Postmaster-General, Calcutta as the competent authority, the appeal shall be addressed to the Secretary to the Government of India in the Ministry of Communications."

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S.R. O.179.—In exercise of the powers conferred by Section 14 of the Territorial Army Act, 1948 (LVI of 1948), the Central Government is pleased to direct that the following amendments shall be made in the Territorial Army Rules, 1948, namely :—

In form II of Schedule I to the said Rules—(1) For the 'Form of Oath' and the 'Form of Affirmation' the following 'Form of Oath' and 'Form of Affirmation' shall be substituted, namely :—

FORM OF OATH.

I do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by law established and that I will, as in duty bound, honestly and faithfully serve in the Territorial Army of the Union of India and go wherever ordered by air, land or sea, and that I will observe and obey all commands of the President of the Union of India and the commands of any officer set over me even to the peril of my life.

FORM OF AFFIRMATION.

I do solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will, as in duty bound, honestly and faithfully serve in the Territorial Army of the Union of India and go wherever ordered by air, land or sea, and that I will observe and obey all commands of any officer set over me even to the peril of my life.

(2) The 'Note' shall be omitted.

H. M. PATEL, *Secretary.*

NOTIFICATION

No. L.D. 2218—Legis. 6-50-48, Bangalore, dated 26th October 1950.

Ordered that the accompanying Notification No. S.R.O. 738, dated 7th October 1950, of the Ministry of Agriculture under the Sugar and Gur Control Order, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 7th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

S. R. O. No. 738.—In exercise of the powers conferred by clause 11 of the Sugar and Gur Control Order, 1950, the Central Government is pleased to direct that the powers conferred on it by clause 4 (a) and (b) and sub-clause 4 (c) in relation to gur of the said Order shall be exercisable also by the Director of Food Supplies, Mysore.

[No. SV-105 (2)/50-51]

N. T. MONE, Jt. Secy.

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NOTIFICATION.

No. L. D. 2219—Legis. 6-50-47, Bangalore, dated the 26th October 1950.

Ordered that the accompanying Notification No. S.R.O. 735, dated 7th October 1950, of the Ministry of Agriculture under the Sugar and Gur Control Order, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 7th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF AGRICULTURE.

NOTIFICATION.

New Delhi, the 7th October 1950.

S.R.O. 735—In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to make the following Order:—

1. *Short title and Commencement.*—(1) This Order may be called the Sugar and Gur Control Order, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. In this Order unless the context otherwise requires:—

(a) "Dealer" means a person carrying on the business of purchasing, selling or distributing sugar or gur or both.

(b) "Ex-factory price" means the price of sugar inclusive of excise duty, packed in accordance with the usual market practice and loaded at the buyer's option on buyer's carts, lorries or other means of transport, or into railway wagons at the railway station or siding generally used by the producer, and includes all incidental charges which are on account of the ex-factory seller.

(c) "Gur" means the article commonly known as gur, gul, jaggery, palmyra jaggery, shakkar and rab, and includes raw sugar and uncrystallised sugar in any other form comprising of original and convertible molasses and other impurities, inherent or foreign prepared by boiling cane or palmyra juice.

(d) "Producer" means a person carrying on the business of manufacturing sugar or gur or both.

(e) "Sugar" means:—

(i) any form of sugar containing more than 90 per cent of sucrose including Khandsari sugar sugarcandy and Bura sugar; and

(ii) any sugar of crystalline structure.

3. *Power to fix minimum price for Sugarcane.*—(1) The Central Government may, after consultation with such authorities, bodies or associations as it may deem fit, by notification in the Official Gazette, from time to time, fix in respect of any area the minimum price to be paid by a producer or his agent for sugarcane purchased by him in that area.

(2) No person shall sell or agree to sell sugarcane to a producer and no producer shall purchase or agree to purchase sugarcane at a price lower than that notified under this clause.

4. *Power to regulate movement of sugarcane and production and movement of Gur and Sugar.*—The Central Government may by order published in the Official Gazette.

(a) prohibit or restrict the export of sugarcane from any area,
(b) direct that no gur or sugar shall be manufactured from sugarcane except under and in accordance with the conditions specified in a licence issued in this behalf, and
(c) prohibit or restrict the despatch of gur or sugar from any State or any area therein.

5. The Central Government may be general or special order direct that no person shall transport or offer or accept for transport, whether by rail, road or water, all or any specified type or grade of sugar except under :—

(a) a general or special permit issued in this behalf.
(b) a Military Credit Note.

Provided that nothing in this clause shall apply to the transport of sugar not exceeding five seers as part of the personal luggage of a *bona fide* traveller.

6. *Power to fix sugar and gur price.*—(1) The Central Government may, from time to time, by notification in the Official Gazette fix the price or the maximum price at which any sugar or gur may be sold or delivered, and different prices may be fixed for different areas or different types or grades of sugar or gur.

(2) Where the price or the maximum price has been so fixed, no person shall sell or purchase or agree to sell or purchase any sugar or gur at a price in excess of that fixed under sub-clause (1).

Provided that the price at which sugar may be sold for delivery otherwise than at ex-factory price shall not exceed the price or the maximum price, as the case may be, fixed under sub-clause (1) for sale at ex-factory price *plus* such charges, in respect of transport to or in specified areas and other incidental charges as are approved by the Central Government.

7. *Power to allot quotas of sugar and gur.*—The Central Government may, from time to time by order,

(i) allot quotas of sugar or gur to any specified State or area,
(ii) issue directions to any prodacer or dealer to supply sugar or gur of such type or grade, in such quantities to such areas or markets or to such persons or organisations and at such prices as may be specified in the Order.

Provided that where the price or maximum price of any sugar or gur has been fixed under sub-clause (1) of Clause 6 the Central Government shall in respect of such sugar or gur specify in the order the price or the maximum price, as fixed.

8. *Power to issue directions to producers and dealers.*—The Central Government may, from time to time, by general or special order issue to any producer or dealer or any class of producers or dealers such directions regarding the production,

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maintenance of stocks, sale, price, grading, packing, marking, weighment, disposal, delivery and distribution of sugar or gur as it may deem fit.

9. Any Officer empowered in this behalf by the Central Government may,

(a) direct any producer or dealer to maintain such Records as he may specify;
(b) direct any producer or dealer to furnish such information as he may require;
(c) inspect or cause to be inspected any books or other documents belonging to or under the control of a producer or a dealer;
(d) enter and search or authorise any person to enter and search any premises of a producer or a dealer.

10. Every producer, dealer or other person to whom any order or direction is issued under any powers conferred by or under this order shall comply with such order or direction.

11. The Central Government may, by notification in the Official Gazette, direct that all or any powers conferred upon it by this order shall, subject to such restrictions, exceptions and conditions if any, as may be specified in the direction, be exercisable also by :—

(a) any officer or authority of the Central Government.
(b) a State Government or any officer or authority of a State Government.

12. (1) The following Orders are hereby repealed :—

(a) The Sugar Stocks (Control) Order, 1949; and
(b) any Order made by a State Government or other authority regulating or prohibiting the production, supply and distribution of sugar or gur and trade and commerce therein which is inconsistent with the provisions of this Order.

(2) An Order made by any authority, which is in force immediately before the commencement of this Order and which is consistent with this Order, shall continue in force and all appointments made, prices fixed, licences and permits granted, and directions issued under any such Order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, fixed, granted, or issued in pursuance of this Order.

[No. SV-105 (2)/50-51.]

N. T. MONE, Jt. Secy.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

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NOTIFICATION.

No. H. B. 7150—Ptl, Dated Bangalore, 1st November 1950.

Ordered that the accompanying Notification No. III—P. M. T (X-4)—50-N—10 dated the 29th September 1950, published in the *Gazette of India* be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

Copy of Notification dated the 29th September 1950, issued by the Government of India, Ministry of Rehabilitation, New Delhi.

III—P. M. T. (X-4) 50—N-10:—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949, (XXIII of 1949), the Central Government is pleased to direct that the following further amendment shall be made in the permit system Rules, 1949, namely:—

To Rule 29 of the said Rules, the following shall be added, namely:—

"No person whose permit has been so cancelled shall stay in India for a period exceeding fifteen days from the date of cancellation of the permit".

NOTIFICATION.

(HOME DEPARTMENT.)

No. H. B. 7181—Ptl., dated Bangalore, 1st November 1950.

Ordered that the accompanying Notification bearing No. III—P. M. T. (X-4)—50-N (11) No. dated 9th August 1950 of the Government of India be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

Copy of Notification dated 9th August 1950, from the Under Secretary to the Government of India, Ministry of Rehabilitation, New Delhi.

No. III—P. M. T. (X-4) 50—N (11):—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), the Central Government is pleased to direct that the following further amendment shall be made in the permit system Rules, 1949 namely:—

In each of Forms A and B set out in Appendix 1, to the said rules, for item 13, the following item shall be substituted namely:—

13 The date from and the period for which the permit is required.

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NOTIFICATION.

(HOME DEPARTMENT).

No. H.B. 7250—Ptl. 14-50-2, Bangalore, dated 3rd November 1950.

The following Notification No. 4—8—49—(A)—F.I., dated 17th August 1950, of the Government of India, Ministry of Home Affairs, New Delhi, is republished in the *Mysore Gazette* for general information :—

"In exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President is pleased to entrust to the Government of Jammu and Kashmir, Madhya Bharat, Mysore, Patiala and East Punjab States Union, Saurashtra and Travancore-Cochin, with their consent, the functions of the Central Government under section 5 of the Indian Passport Act, 1920, (XXXIV of 1920), and rule 2 of the Indian Passport Rules, 1950."

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

NOTIFICATION.

No. L.D. 2278—L.A. 47-49-14, dated Bangalore, 2nd November 1950.

In exercise of the powers conferred by Article 195 read with clause (9) of Article 238 of the Constitution of India, the *Rajpramukh* of Mysore His Highness the Maharaja is pleased to order that in addition to the allowances determined in Notification No. L.D. 1197—R. A. 47-49-5, dated 28th February 1950, the members of the Legislative Assembly of Mysore shall be paid a lunch allowance as hereunder :—

Lunch allowance in lieu of free lunch which was hitherto being supplied, in addition to daily allowance.	Rupees TWO per day of session.

JAYA CHAMARAJA WADIYAR,
Maharaja of Mysore.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, WEDNESDAY, NOVEMBER 8, 1950

PART IV

Section 2-A.

BILLS, SELECT COMMITTEE REPORTS, IF ANY, THEREON AND ACTS AND ORDINANCES OF MYSORE.

NOTIFICATION.

Order No. L.D. 2296—Legis. 26-50-1, Bangalore, dated 7—8th November 1950.

Ordered that the accompanying City of Bangalore Municipal Corporation (Amendment) Ordinance, 1950, which was promulgated by His Highness the Maharaja, on the sixth day of November 1950, be published as Mysore Ordinance No. V of 1950, in the *Mysore Gazette* for general information.

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MYSORE ORDINANCE No. V OF 1950.

THE CITY OF BANGALORE MUNICIPAL CORPORATION (AMENDMENT) ORDINANCE, 1950.

(Promulgated on the sixth day of November 1950.)

An Ordinance further to amend the City of Bangalore Municipal Corporation Act, 1949.

Preamble.

WHEREAS the Mysore Legislative Assembly is not in session and the Rajpramukh of Mysore is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the City of Bangalore Municipal Corporation Act, 1949, (Mysore Act, No. LXIX of 1949), for the purpose hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, His Highness the Rajpramukh of Mysore is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the City of Bangalore Municipal Corporation (Amendment) Ordinance, 1950.

(2) It shall come into force at once.

Insertion of new section 438-A in Mysore Act LXIX of 1949.

2. After section 438 of the City of Bangalore Municipal Corporation Act, 1949, the following section shall be inserted, namely—

Temporary provision for first elections under the Act.

"438-A. Notwithstanding anything contained in this Act, for the purposes of the first elections for duly constituting the Corporation under the provisions of this Act, the provisions of section 366 shall not apply to notifications under section 48."

JAYA CHAMARAJA WADIYAR,
Rajpramukh of Mysore.

By Order of the Rajpramukh of Mysore,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

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(EXTRAORDINARY)

BANGALORE, WEDNESDAY, NOVEMBER 8, 1950.

PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATION

No. L. 7932—C.M. 30-50-8, dated Bangalore, 8th November 1950.

In exercise of the powers conferred by clauses (*a*) and (*b*) of sub-section (2) of Section 48 of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act No. LXIX of 1949) and in supersession of Notification No. L. 6671—C.M. 57-49-6, dated 7th January 1950, His Highness the Maharaja of Mysore is pleased to declare that for the purpose of the election of Councillors to fill the seats specially reserved for members of the Depressed Classes and Women under clause (*a*) of sub-section (1) of Section 5, one seat shall be reserved for them in each of the following Divisions, namely :—

Depressed Classes.	*Women.*
Division No. 15—Super Talkies Division	Division No. 1—Malleswaram West.
Division No. 25—Town Hall.	Division No. 23—Basavangudi East.
Division No. 29—Cubbonpet.	Division No. 29—Cubbonpet.
Division No. 36—Murphy Town	Division No. 13—Kasiviswesvaraswamy Temple.
Division No. 41—Bamboo Bazaar.	Division No. 33—Fraser Town.
Division No. 50—Austin Town.	Division No. 46—Tasker Town.

By Order of His Highness the Maharaja,

L. MUNISWAMY,

Secretary to Government,

Local Self-Government Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATION.

No. L.B. 8187—V.P. 36-50-24, dated Bangalore, the October—2nd November 1950.

The draft of the following further amendments to the rules under the Mysore Village Panchayet Act, 1926, (Mysore Act II of 1926) which it is proposed to make in exercise of the powers conferred by Section 65 of the said Act is hereby published for the information of all persons likely to be affected thereby as required by the said Section.

Notice is hereby given that the draft will be taken into consideration after 30th November 1950.

Objections or suggestions, if any, to the said draft may be forwarded to the Secretary to Government, Revenue Department, for consideration so as to reach him before the said date.

For Rule 185 of the Rules under the Mysore Village Panchayet Act, 1926, the following rule shall be substituted :—

"185 (1) No person shall bury or burn the carcass, of any animal at any place other than the place set apart for the purpose by the Village Panchayet.

(2) The occupier of any premises in or on which any animal shall die, and the person having the charge of any animal which dies in a street or in any open place, shall, within an hour after the death of such animal, or if the death occurs at night, within an hour after sunrise, report the death of the animal to the Patel of the Village.

(3) On receipt of a report under sub-rule (2), the Patel shall make necessary entries in the register kept for the purpose and shall arrange for the burial or burning of the carcass of the animal without cutting it open, at the place set apart by the Village Panchayet for the purpose

and shall record the fact of such burial or burning in the register, attested by not less than three respectable persons of the village present at the burial or burning.

(4) If any person fails to make a report as required by sub-rule (2), the Patel of the village shall on receipt of information of the death of the animal, make necessary entries in the register and arrange for the burial or burning of the carcass of the animal, and the person failing to make the report under sub-rule (2) shall pay to the Village Panchayet the cost of the removal and burial or burning of the carcass of the animal.

2. In Rule 186, *for the word* "Chairman", *the word* "Patel" shall be substituted.

By Order of His Highness the Maharaja,

T. RANGAMALLIAH,
Secretary to Government,
Revenue Department.

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PART IV

Section I-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 2321—Legis. 4-50-63, dated Bangalore, 11th November 1950.

Ordered that the accompanying Notification of the Government of India in the Ministry of Law No. S.R.O. 822, dated the 30th October 1950, amending the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, published in the *Gazette of India*, dated the 30th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF LAW.

NOTIFICATION.

New Delhi, the 30th October 1950.

S.R.O. 822.—In exercise of the powers conferred by section 28 of the Representation of the People Act, 1950 (XLIII of 1950), the Central Government, after consulting the Election Commission, is pleased to make the following amendments in the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, namely :—

I. In the said Rules,—

(*1*) in clause (*e*) of rule 2, after the words "part of a constituency" the words "or an electoral unit or part of an electoral unit" shall be inserted ;

(*2*) in Part I, after rule 2, the following rule shall be inserted, namely :—

"2A. In the application of these rules to any electoral roll first prepared under Part III of the Act or under any provisions of that Part read with section 26 of the Act, the provisions of rules 3, 4, 5, 9, 10 and 11 and of sub-rules (1) and (2) of rule 24 shall have effect as if for any reference to a constituency in the said rules and sub-rules there were substituted a reference to an electoral unit in relation to which such electoral roll has been directed to be prepared under sub-section (1) of section 22A of the Act.";

(3) in the proviso to sub-rule (2) of rule 10, the words, brackets and figures "in the case of persons to whom the provisions of sub-section (7) of section 20 of the Act apply" shall be omitted;

(4) in rule 12,

(a) to sub-rule (1) the following shall be added, namely:—

"or with the permission of the Election Commission, make an application to such Revising Authority for the inclusion in or the exclusion from the electoral roll of the names of any other persons."; and

(b) to sub-rule (3) the following proviso shall be added, namely:—

"Provided further that where an application is made for the inclusion of the name of any person in the electoral roll, it shall not be necessary to serve any such notice on the persons affected by the application, but the Revising Authority shall in such case direct that a copy of such notice be posted in some conspicuous place in his office and be published in such other manner, if any, as the Revising Authority thinks fit.";

(5) in rule 14,—

(a) in sub-rule (1)—

(i) after the words "received in time" the words, brackets and figures "or his agent, if any, authorised by him under sub-rule (1) of rule 11" shall be inserted; and

(ii) for the word and figures "Form IX" the words, figures and brackets "Form VI (Part II) or Form VII (Part II), as the case may be," shall be substituted; and

(b) in sub-rule (2) for the word and figure "Form X" the words, figures and brackets "Form VIII (Part III)" shall be substituted;

(6) in rule 16, for the words "Every notice issued by the Revising Authority" the words, brackets and figures "Subject to the provisions contained in the second proviso to sub-rule (3) of rule 12, every notice issued by the Revising Authority" shall be substituted; and

(7) to rule 23, the following sub-rule shall be added, namely:—

"(3) The provision of this rule shall apply in relation to the electoral roll prepared under sub-section (1) of section 22A of the Act for any electoral unit or part of an electoral unit to be comprised within a Parliamentary constituency or an Assembly constituency in a State as they apply in relation to the electoral rolls for the Parliamentary constituencies and the Assembly constituencies in that State."

II. In the Forms appended to the said Rules,—

(1) in Forms I, II and III, after the word "constituency", wherever it occurs, the following shall be inserted, namely:—

"/electoral unit";

(2) in Form IV appended to the said rules,—

(a) in the heading, after the word "constituency" in the two places where it occurs, the symbol and words "/electoral unit" shall be inserted;

(b) before the words "Parliamentary constituency" wherever they occur, the words and symbol "electoral unit/" shall be inserted;

(c) for the words "for the purpose of my registration in the electoral roll for that constituency", in the first place where they occur, the words "for the purpose of my registration in the electoral roll for that electoral unit/constituency" shall be substituted; and

(d) for the words "for the exclusion of my name from the electoral roll for that constituency" the words "for the exclusion of my name from the electoral roll for that electoral unit/constituency" shall be substituted;

(3) in Form V, after the word "constituency" the symbol and words "/electoral unit" shall be inserted, and

(4) for Form VI the following Form shall be substituted, namely :—

"THE REPRESENTATION OF THE PEOPLE (PREPARATION OF ELECTORAL ROLLS) RULES, 1950.

FORM VI.

PART I.—CLAIM FOR INCLUSION IN THE ELECTORAL ROLL.

Rule 10.

.....Electoral unit/ Parliamentary/Assembly constituency. Claim for inclusion in electoral roll for village/ward ..... Thana/Taluka/Town..... District.....	To be filled by the claimant.	Claim No..... Filed on..... Date of hearing and adjournment, if any.....	To be filled by the office.

Name, father's or husband's name and full address of claimant	Particulars of claim	Documents submitted with claim in support of the statement in column (2)	How claim is filed, (personally by agent or by post) (Name of agent, if any)
1	2	3	4
	The claimant is a citizen of India and was not less than 21 years of age on the 1st day of.....19 , and he has been ordinarily resident at*..... in†..... .....for not less than 180 days during the qualifying period beginning on the 1st day of.....19 and ending on the.....19 . He has not claimed to be included or has not been included in any electoral roll of any electoral unit/Parliamentary/Assembly constituency with any other address.	Original/certified copies of— (i) (ii) (iii)	

DECLARATION.

The above particulars are true and correct in all respects.

Dated 19

Signature or thumb impression of the claimant.....

‡Signature of person signing on behalf of claimant.....

Address of person signing, if not the claimant.....

* Here insert the address. † Here insert the electoral unit or constituency.

‡ If the claimant does not sign himself, the person signing on his behalf must in every case file a written authority from the claimant.

Note.—Any person who makes a false declaration or gives information which he knows or believes to be false or does not believe to be true is liable to be punished under Section 199 and/or 182 I.P.C.

645 346

Received notice of date of hearing.

Dated.....19

.....
Claimant/Agent.

Certificate of service of notice.

(To be filled by the Serving Officer only when notice is not served at the time of the filing of the claim or by post.)

Certified that the notice on the claimant has been duly served by me this.....day of.....on (name)..... personally / by affixation on residence.

Dated.....19

Place.....

.....
Serving Officer.

Decision of the Revising Authority.

Dated.....19

.....
Signature of the Revising Authority.

646374

PART II.—NOTICE.

(Rule 14)

To be filled by claimant	*To be filled by the office
To Name of claimant..... Name of father/husband of claimant..... ..... Full address of claimant..... *Re.* your claim No.....* for inclusion in the electoral roll for..... ..... village/town.	Take notice that your claim will be heard at..... ..... (place) at.....o'clock on the.....day of..... and you are directed to be present at the hearing with such evidence as you may wish to adduce. ..... Revising Authority. Dated.....195 Place:.....;"

647 348

(5) for Form VIII the following Form shall be substituted namely :—

THE REPRESENTATION OF THE PEOPLE (PREPARATION OF ELECTORAL ROLLS) RULES, 1950.

FORM VIII

PART I—OBJECTION TO REGISTRATION OF ELECTORS

(Rule 10)

.....Electoral unit/constituency Objection against entry No..... in the electoral roll of village/ward ..... Thana/Taluka/Town..... District..... ..... } To be filled by the objector.	Objection No..... Filed on..... Date of hearing and adjournment, if any..... } To be filled by the office.

Name, father's or husband's name and full address of objector	Name*, father's or husband's name and full address of the person to whom the entry objected to relates	Grounds of objection	Documents submitted with the objection	How objection is filed, (personally, by agent or by post) (Name of agent, if any)
(1)	(2)	(3)	(4)	(5)
		The grounds of my objection are :—	Original/certified copies of :— (i) (ii) (iii)	

Declaration

I declare the statements made in this objection to be true to my knowledge and belief.

Signature or thumb impression of the objector.....
Entered on the electoral roll of.....
Electoral unit/constituency as serial No.....in the roll for..... .....Union/Ward of.....Sub-Division/ Municipality in.....District.

Dated.....19 .

*Here insert the name as it appears in the electoral roll.

NOTE.—Any person who makes a false declaration or gives information which he knows or believes to be false or does not believe to be true is liable to be punished under Section 199 and /or 182 I. P. C.

648 349

Received notice of date of heari .

Dated.....19 .

Objector/Agent.

Certificate of service of notice on objector.

(To be filled by the Serving Officer only when notice is not served at the time of the filing of the objection or by post.)

Certified that the notice on the objector has been duly served by me this ..... day of.....on*.....personally/by affixation on residence.

Dated..... .....195 .

Place..... .....

Serving Officer.

Certificate of service of notice on the opposite party.

To be filled by the Serving Officer when notice is not served by post.)

Certified that this notice has been duly served by me this.....day of..... ....on*.....personally/by affixation on residence.

Serving Officer.

Dated.....195 .

Place.....

*Here insert the name of the person on whom the notice was served.

Decision of the Revising Authority.

Dated.....19 .

Signature of the Revising Authority.

649 350

PART II—NOTICE

[*Rule 14 (1)*]

To be filled by the objector		*To be filled by office
To Name of objector..... Name of father/husband of objector ..... Full address of objector.....	*Re.* your objection No.* ..... against (name)..... son/wife of ..... residing at ..... in respect of entry No. ..... in the electoral roll of village/ward ..... Thana/Taluka/Town ..... District	Take notice that your objection will be heard at..... (place) at..... o'clock on the .....day of ..... and you are directed to be present at the hearing with such evidence as you may wish to adduce. Revising Authority. Dated ..... Place.....

PART III—NOTICE.

[*Rule 14 (2)*]

To be filled by objector		*To be filled by office
Objection No.*..... by (name of objector) ..... of village/ward..... Thana/Taluka/Town .....District .....in respect of entry No. ..... in the electoral roll of village/ward ..... Thana/Taluka/Town .....District for..... electoral unit/constituency. Grounds of objection (in brief) are.....	To Name of opposite party.. ..... Full address of opposite party.....	The objector has filed an objection to the inclusion of your name in the electoral roll for the electoral unit/constituency mentioned in this notice on the ground stated herein. Take notice that the said objection will be heard at ..... (place) at ..... o'clock on the ..... day of .....and you are directed to be present at the hearing with such evidence as you may wish to adduce. Revising Authority. Dated ..... Place ....."; and

(6) Form IX and Form X shall be omitted.

[No. F. 8(4)/50-C.]

K. V. K. SUNDARAM, *Secy.*

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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

Notification No. Fl. 6918—S. T. 32-50-2, dated Bangalore, 10th November 1950.

The draft of the following amendments to the Motor Spirit (Taxation on Sales) Rules, 1949, which it is proposed to make in exercise of the powers conferred by section 26 of the Motor Spirit (Taxation on Sales) Act, 1949, (Mysore Act XLIX of 1949), is hereby published for the information of all persons likely to be affected thereby as required by sub-section (4) of the said section.

Notice is hereby given that the draft will be taken into consideration after four weeks from the date of publication of this notification in the *Mysore Gazette*. Objections or suggestions, if any, to the said draft may be forwarded to the Secretary to Government, Finance Department, Public Offices, Bangalore, through the Commissioner of Sales Tax in Mysore, Bangalore, for consideration so as to reach him within the aforesaid period.

DRAFT.

Amendments to the Motor Spirit (Taxation on Sales) Rules, 1949.

In the said Rules :—

1. For sub-rule (1) of rule 20, the following sub-rule shall be substituted, namely :—

" (1) Every retail dealer shall keep true and correct accounts in Form " E " of all daily transactions in Motor Spirit. The accounts for each day shall be made up and totalled before noon of the following day. The reading of the pump issue meter at the end of each day shall also be entered in the accounts for the day :—

Provided that—

(*a*) where a retail dealer is registered also as an importer he shall keep a single set of accounts showing all his daily transactions in motor spirit ; and

(*b*) where a retail dealer is registered also as a wholesale dealer but not as an importer, he shall keep accounts in Form " E " as well as separate accounts in respect of all his daily transaction as a wholesale dealer in motor spirit.

Explanation.—For the purposes of this sub-rule, a dealer who is registered as an importer shall be deemed to be registered as such in respect of all his places of business."

2. For sub-rule (1) of rule 21, the following sub-rule shall be substituted, namely :—

"(1) In every month every retail dealer shall send in duplicate—

(i) a return in Form "F" of the transactions relating to the previous month to the Sales Tax Officer of the area in which he is registered together with the treasury receipt referred to in section 6;

(ii) a return in Form F-1 to the Sales Tax Officer of the area in which he is registered; and

(iii) a return in Form F-2 to the Sales Tax Officers of the areas in which the retail dealers to whom he issued motor spirit in the previous month are registered:

Provided that—

(*a*) where a retail dealer is registered also as an importer, he shall send the returns mentioned in sub-rule (1) of rule 24, and

(*b*) where a retail dealer is registered also as a wholesale dealer but not as an importer, he shall send the returns mentioned in this sub-rule as well as those mentioned in sub-rule (1) of rule 24.

Explanation.—For the purposes of this sub-rule, a dealer who is registered as an importer shall be deemed to be registered as such in respect of all his places of business."

3. In clause (1) of sub-rule (1) of rule 24, for the words and figure "together with the treasury receipt referred to in section 6", the words and figure, "and in the case of an importer the treasury receipt referred to in section 6" shall be substituted.

4. In Forms H, H-1, H-2, H-3 and H-4, the words and brackets "(or depot)" and "(or depots)", wherever they occur shall be omitted.

By Order of His Highness the Maharaja,

M. SHAMANNA,
Secretary to Government,
Finance Department.

No. C. 1610—C. O. 24-49-19, dated Bangalore, 10th November 1950.

In exercise of the powers conferred by sub-rule 2 of Rule 81 of the Defence of India Rules as applied to Mysore and continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947 (Act XX of 1947) His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the Mysore Cotton Textiles (Export Control) Order, 1949, namely :—

In the said Order—

(1) In clause 5 the following shall be substituted for sub-clause (ii) namely :—

(ii) The Textile Commissioner may with a view to ascertain the quality or prices of cloth or yarn intended

for export or with a view to securing compliance with sub-clause (i)—

(*a*) direct any person to give any information or produce any document in his possession with respect to any business in cloth or yarn carried on by that or any other person ;

(*b*) direct any manufacturer or exporter to furnish returns in respect of cloth or yarn sold by him for export and the prices charged therefor ;

(*c*) inspect or cause to be inspected any cloth or yarn ;

(*d*) direct any manufacturer or exporter to open any bale or package of cloth or yarn intended for export for the purpose of inspection ;

(*e*) enter and search or authorise any person to enter and search any premises, where cloth or yarn is manufactured or stored ;

(*f*) enter and search or authorise any person to enter and search any premises, vehicles, vessels or aircraft in which he has reason to believe any cloth or yarn intended for export is stored or carried ;

(*g*) direct any manufacturer or exporter to furnish samples of any cloth or yarn, such samples, in the case of cloth, being of dimensions of 6″×6″ and, in the case of yarn, being not less than a hank ;

(*h*) seize, or cause to be seized, any cloth in respect of which he has reason to believe that a contravention of sub-clause (i) has been committed ".

(2) Clauses 8, 9 and 10 shall be renumbered as clauses 9, 10 and 11 respectively and the following shall be inserted as clause 8 namely

"8. No person shall refuse to give any information, produce any document or furnish any sample or return lawfully demanded from him under this order or to comply with any other direction given under the Order."

By Order of His Highness the Maharaja.

No. A. F. 6715—Mart. 5-50-4, dated Bangalore, the 11th November 1950.

The draft of the following further amendments to the Mysore Agricultural Produce Markets Rules, 1947, which it is proposed to make in exercise of the powers conferred by section 6 of the Mysore Agricultural Produce Markets Act, 1947 (Mysore Act No. XVI of 1939) is hereby

published for the information of all persons likely to be affected thereby as required by the said section.

Notice is hereby given that the amendments will be taken into consideration on or after 15 days from the date of publication of this notification in the *Mysore Gazette.*

Objections or suggestions, if any, may be forwarded to the Secretary to Government, Food and Agriculture Departments, Bangalore, for consideration so as to reach him before the said period.

Objections or suggestions not received within the said period will not be considered.

DRAFT AMENDMENTS.

(1) In sub-rule (2) of rule 7 and rule 18 for the word "July", the word "April" shall be substituted.

(2) In sub-rule (1) of rule 35, for the figures and words "1st of July" and "30th of June", the figures and words "1st day of April" and "31st day of March" shall respectively be substituted.

(3) In sub-rule (2) of rule 35, for the words "April" and "May", the words "January" and "February" shall respectively be substituted.

(4) In sub-rule (2) of rule 55, for the figure and words "30th of June", the figure and words "31st day of March" shall be substituted.

(5) For rule 55 (2) of the said rules the following proviso shall be added:—

"Provided that in the case of the year ending on 31st March 1951, the fee payable shall be three-fourths of the fee payable for a year".

(6) In sub-rule (4) of rule 60, for the figure and words "30th June", the figure and words "31st day of March" shall be substituted.

(7) In sub-rule (1) of rule 68, for the figure and words "30th June", the figure and words "31st March" shall be substituted.

By Order of His Highness the Maharaja,

A. S. KHALEEL,

Secretary to Government,
Food and Agriculture Departments.

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BANGALORE, TUESDAY, NOVEMBER 21, 1950.

NOTIFICATION.

No. L. D. 2887—Legis. 4-53-54, dated Bangalore, 20th November 1950.

Ordered that the accompanying Notifications No. 24/50—Elec. (53) and No. 24/50—Elec. (54), dated the 18th November 1950, issued by Election Commission, India, be published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

ELECTION COMMISSION, INDIA.

NOTIFICATION.

Dated, New Delhi, the 18th November 1950.

No. 24/50—Elec. (53).—In exercise of the powers conferred by sub-section (1) of section 22 of the Representation of the People Act, 1950, read with sub-section (3) of section 22A of that Act and by the said sub-section (1)

read with the said sub-section (3) and section 26 of the said Act, the Election Commission, in consultation with the Government of Mysore, hereby designates the officers specified in column 1 of the table below to be the Electoral Registration Officers for the preparation of the electoral rolls for the electoral units in the State of Mysore specified in the corresponding entries in column 2 of that Table :—

TABLE.

Officers.	*Units.*
(1)	(2)
Assistant Commissioner of the Revenue Sub-division.	Each revenue sub-division including the municipal, sanitary and town board areas within the territorial limits of the Revenue Sub-division.
Assistant Commissioner, Sringeri Jahgir.	The areas comprised within Sringeri Jahgir.
Commissioner, Bangalore City Municipal Corporation.	The areas under the jurisdiction of the Bangalore City Municipal Corporation.
Commissioner, Mysore City Municipal Council.	The areas under the jurisdiction of the Mysore City Municipal Council.
Commissioner, Davangere City Municipal Council.	The areas under the jurisdiction of the Davangere City Municipal Council.
Special Magistrate of Kolar Gold Fields Sanitary Board Area.	The areas under the jurisdiction of the Kolar Gold Fields Sanitary Board.

P. S. SUBRAMANIAN,
Secretary.

ELECTION COMMISSION, INDIA.

NOTIFICATION.

Dated, New Delhi, the 18th November 1950.

No. 24/50—Elec. (54).—In exercise of the powers conferred by sub-section (1) of section 22A of the Representation of the People Act, 1950, the Election Commission, in consultation with the Government of Mysore, directs that the first electoral rolls to be prepared under Part III of the said Act and under that Part read with section 26 of the said Act shall be prepared in the areas

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within the State of Mysore specified in column 1 of the Table below in relation to the electoral units specified in the corresponding entries in column 2 of that Table:—

TABLE.

Areas. (1)	*Electoral unit.* (2)
All areas excluding (*a*) the areas under the jurisdiction of the— (i) Bangalore City Municipal Corporation. (ii) Mysore City Municipal Council, (iii) Davangere City Municipal Council, and (iv) Kolar Gold Fields Sanitary Board, and (*b*) the areas comprised within Sringeri Jahgir.	Each Revenue Sub-division.
The areas under the jurisdiction of the Bangalore City Municipal Corporation.	The whole of the said areas.
The areas under the jurisdiction of Mysore City Municipal Council.	The whole of the said areas.
The areas under the jurisdiction of Davangere City Municipal Council.	The whole of the said areas.
The areas under the jurisdiction of Kolar Gold Fields Sanitary Board.	The whole of the said areas.
The areas comprised within Sringeri Jahgir.	The whole of the said areas.

P. S. SUBRAMANIAN,
Secretary.

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PART IV

Section 1-B

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 2255—Legis. 2-50-43, Bangalore, dated 30th—31st October 1950.

Ordered that the accompanying Indian Income-Tax (Amendment) Ordinance, 1950 (XXVIII of 1950) published in the *Gazette of India*, Part II, Section 1, dated the 7th October 1950, be republished in the *Mysore Gazette*, for general, information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF LAW.

New Delhi, the 7th October 1950.

THE INDIAN INCOME-TAX (AMENDMENT) ORDINANCE, 1950.

No. XXVIII OF 1950.

An Ordinance further to amend the Indian Income-tax Act, 1922.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. *Short title and commencement.*—(*1*) This Ordinance may be called the Indian Income-tax (Amendment) Ordinance, 1950.

(*2*) It shall come into force at once.

2. *Amendment of section 9, Act XI of 1922.*—During the period of operation of this Ordinance, the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), shall have effect as if to clause (*iv*) of sub-section (*1*) of section 9 there had been added the following *Explanation*, namely :—

"*Explanation.*—In this clause, 'annual charge' does not include and shall be deemed never at any time to have included a tax in respect of property or income from property levied by any local authority, State Government or the Central Government."

3. *Ordinance not to apply in certain cases.*—Where before the commencement of this Ordinance the Supreme Court has, on an appeal in respect of the assessment of an assessee for any particular year, held that any tax paid by that assessee in respect of the relevant previous year is "an annual charge not being a capital charge" within the meaning of clause (*iv*) of sub-section (*1*) of section 9 of the said Act, then nothing contained in this Ordinance shall apply to the assessment of such assessee for that particular year.

4. *Special procedure for revision in certain cases.*—Where in respect of any assessment of an assessee under the head "income from property" other than an assessment referred to in section 3, an allowance has, between the 26th day of May 1950, and the commencement of this Ordinance, been made by an Income-tax authority or the Appellate Tribunal in respect of any municipal tax or other taxes levied by any local authority or State Government as an annual charge not being a capital charge, the Income-tax Officer shall revise the assessment by excluding such allowance, and if, in consequence of such revision, any tax is found payable by the assessee, the Income-tax Officer shall serve on the assessee a notice of demand specifying the sum so payable, and such notice of demand shall be deemed to be issued under section 29 of the said Act, and the provisions of the said Act shall apply accordingly.

RAJENDRA PRASAD,
President.

S. N. MUKERJEE,
Joint Secy. to the Govt. of India.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

PART IV 361

Section 1-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHIC APPLY TO MYSORE

NOTIFICATION.

(HOME DEPARTMENT)

No. H. B. 7725—Ptl. 1-50-3, dated Bangalore, the 16th November 1950.

WHEREAS Article 5 of the Constitution of India provides that every person who has his domicile in India and satisfies certain other conditions shall be a citizen of India:

His Highness the Maharája of Mysore is pleased to direct that for the purposes of proving the acquisition of domicile in India contemplated by the said Article 5 of the Constitution, any person who intends to make a declaration or sign an affidavit stating, *inter alia*, that his intention has been to make India his permanent home and that he was domiciled in India on the 26th day of January 1950, may make such declaration or sign such affidavit before the District Magistrates of the Districts.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

NOTIFICATION.

No. L.D. 2256—Legis. 6-50-50, dated Bangalore, the 30th—31st October 1950.

Ordered that the accompanying Notification No. S.R.O. 615, dated the 13th September 1950 of the Ministry of Rehabilitation amending the Notification of 27th May 1950, published in the *Gazette of India*, Part II—Section 3, dated the 15th September 1950, be re-published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF REHABILITATION.

New Delhi, the 13th September 1950.

S.R.O. 615.—In exercise of the powers conferred by sub-clause (ii) of clause (a) of section 2 of the Displaced Persons (Claims) Act, 50 (XLIV of 1950), the Central Government is pleased to direct that the following amendment shall be made in the

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Notification of the Government of India in the Ministry of Rehabilitation No. 3 (14) Genl./5011, dated 27th May 1950, namely :—

In the said Notification for item 2, the following items shall be substituted, namely :—,

2. Any other immovable property in West Pakistan comprising of a building situated in an area other than an urban area :

Provided that where the person making the claim has been allotted any agricultural land in India—

(*a*) where the agricultural land so allotted exceeds 4 acres, the value of the building in respect of which the claim is made shall not, according to the present estimated cost of construction, be less than Rs. 20,000.

(*b*) where the agricultural land so allotted is 4 acres or less, the value of the building in respect of which the claim is made shall not, according to the present estimated cost of construction, be less than Rs. 10,000.

Explanation I.—In this clause the expression "building" includes,—

(*a*) any structure in immediate vicinity of the building without which the building cannot be conveniently occupied or enjoyed ;

(*b*) any garden, grounds, and out-houses, appertaining to such building.

Explanation II.—For the purpose of this clause, a person shall be deemed to have been allotted agricultural land in India if he is allotted such land in any manner whatsoever whether on temporary or quasi-permanent basis.

[No. 3 (25/Genl./50.]

M. L. PURI, *Under Secy.*

NOTIFICATION.

No. L. D. 2257—Legis. 4-50-62, Bangalore, dated 30th—31st October 1950.

Ordered that the accompanying Notification No. S.R.O. 205, dated the 16th September 1950 of the Ministry of Defence amending the National Cadet Corps Rules published in the *Gazette of India*, Part II, Section 4, dated the 16th September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF DEFENCE

New Delhi, the 16th September 1950.

S.R.O 205.—In exercise of the powers conferred by section 13 of the National Cadet Corps Act, 1948 (XXXI of 1948), the Central Government is pleased

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to direct that the following amendment shall be made in the National Cadet Corps Rules, namely:—

In schedule III to the said rules, for sub-para (a) of para 2, the following shall be substituted :—

"(a) Senior Division Officers—

(i) Army Wing :—

On being first commissioned—2nd Lieutenant.

After 3 years commissioned service—Lieutenant.

After 8 years commissioned service—Captain.

After 15 years commissioned service—Major.

(ii) Air Wing :—

On being first commissioned—Pilot Officer.

After 3 years commissioned service—Flying Officer.

After 8 years commissioned service—Flight Lieutenant.

After 15 years commissioned service—Squardon-Leader."

H. M. PATEL, *Secy.*

NOTIFICATION.

No. L.D. 2256—Legis. 6-50-51, Bangalore, dated 30th—31st October 1950.

Ordered that the accompanying Notification No. S.R.O. 572, dated the 6th September 1950 of the Ministry of Food, regarding production of Ghee, etc., published in the *Gazette of India*, Part II, Section 3, dated the 9th September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF FOOD

New Delhi, the 6th September 1950.

S. R. O. 572.—In exercise of the powers conferred by sub-section (1) of section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to direct that no order made or deemed to be made—

(*a*) by the Government of a Part A State or the Chief Commissioner of a Part C State under the said Act, or

(*b*) by the Government of a Part B State under the said Act or any other corresponding law in force in that State before the commencement of the said Act in that State

shall have effect from the 9th September 1950 so as to prohibit or restrict the movement of ghee from any place in a State to any other place within or outside the State or so as to regulate or control the price, production or distribution of ghee in any manner, whatsoever.

[No. CG-603(2)-XI(2).]

S. K. SEN, Dy. Secy.

NOTIFICATION.

No. L.D. 2020—Legis. 3-50-58, Bangalore, dated 5th October 1950.

Ordered that the accompanying Notifications Nos. S.R.O. 190 and 191, dated the 2nd September, 1950 of the Ministry of Defence, constituting zones for recruitment to the Territorial Army and amending the National Cadet Corps Rules, published in the *Gazette of India*, Part II, Section 4, dated the 2nd September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF DEFENCE

New Delhi, the 2nd September 1950

S.R.O. 190.—In exercise of the powers conferred by sub-rule (b) of Rule 3 of the Territorial Army Rules, 1948, the Central Government is pleased to constitute the following zones for purpose of recruitment to the Territorial Army, namely :—

Zone 1. Punjab, Rajputana and Delhi (includes the States of Rajasthan, the Patiala and East Punjab States Union, Himachal Pradesh, Madhya Bharat, Jammu and Kashmir and Bhopal).

Zone 2. Uttar Pradesh and Vindhya Pradesh.

Zone 3. Madhya Pradesh.

Zone 4. Bombay and Kathiawar (Includes the State of Saurashtra).

Zone 5. Madras (includes the States of Coorg, Mysore and Travancore-Cochin).

Zone 6. Bihar and Orissa.

Zone 7. West Bengal and the Andaman and Nicobar Islands.

Zone 8. Assam, Tripura and Khasi Hill States.

(Case No. 47671/GS/TA-2.)

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S. R. O. 191.—In exercise of the powers conferred by Section 13 of the National Cadet Corps Act, 1948 (XXXI of 1948), the Central Government is pleased to direct that the following further amendments shall be made in the National Cadet Corps Rules, namely :—

A. In rule 35 of the said Rules :—

(i) for clause (b) of sub-rule (1), the following clause shall be substituted, namely :—

"for periods of actual attendance at Cadets' cadre camps, at authorised courses of instruction in Armed Forces Schools, and with Armed Forces units, including intervening Sundays and holidays."

(ii) for sub-rule (2), the following sub-rule shall be substituted, namely :—

"(2) Every Officer commissioned in the National Cadet Corps and posted to unit of the Junior Division shall be entitled for periods of actual attendance at cadets' cadre camps and at authorised courses of instruction in Armed Forces Schools and with Armed Forces units, including intervening Sundays and holidays, to such pay as is specified in Schedule II."

B. In Schedule II to the said Rules :—

(1) In sub-paragraph (b) of paragraph 1, after the words "annual training camps," the words "and at a cadets' cadre camp" shall be inserted.

(2) In sub-paragraph (c) of paragraph 2, after the words "annual training camp", the words "or a cadets' cadre camp" shall be inserted.

(3) In sub-paragraphs (b) and (c) of paragraph 2, and in sub-paragraph (b) of paragraph 4, for the word and figure "Class II," the figure, letters and word "2nd class" shall be substituted.

(4) In sub-paragraph (c) and (d) of paragraph 3 for the word and figure "class II" the words "Intermediate class" shall be substituted.

H. M. PATEL, *Secy.*

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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. T. 6733—R. T. 74-50-15, dated Bangalore, 14th November 1950.

In exercise of the powers conferred under Sections 83 and 92 of the Mysore Motor Vehicles and Road Traffic Act, 1944, His Highness the Maharaja of Mysore is pleased to exempt from payment of taxes and tolls leviable under the said Act, the Bus No. M.Y.-7605-Z belonging to the Mysore Government Road Transport Department during its journey from Bangalore to Mercara and back between the 17th and the 21st November for the conveyance of the party of His Excellency the Governor of Madras.

By Order of His Highness the Maharaja,

———

No. T. 6782—R. T. 66-50-5, dated Bangalore, 16th November 1950.

In exercise of the powers conferred by Section 53 of the Mysore Motor Vehicles and Road Traffic Act, 1944, (Mysore Act No. XXVII of 1944), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made to the Mysore Motor Vehicles and Road Traffic Rules, 1945, the draft of the same having been previously published in Part IV, Section 2 (b) of the *Mysore Gazette* dated the 21st September 1950 in Notification No. T. 4996—R.T. 66-50-4, dated the 16th September 1950 as required by Section 125 of the said Act, namely :—

Amendments.

In Rule 380 of the Mysore Motor Vehicles and Road Traffic Rules, 1945, for the words "ROYAL MAIL" the word "MAIL" shall be substituted.

By Order of His Highness the Maharaja,

L. MUNISWAMY,
Secretary to Government,
Local Self-Government Department.

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

85] BANGALORE, THURSDAY, NOVEMBER 30, 1950. [No. 47

PART IV

Section I-B

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 2395—Legis. 2-50-44, Bangalore, dated the 22nd November 1950.

Ordered that the accompanying the Essential Supplies (Temporary Powers) Amendment Ordinance, 1950 (XXXI of 1950) published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated the 8th November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF LAW 36.8

New Delhi, the 8th November 1950.

THE ESSENTIAL SUPPLIES (TEMPORARY POWERS) AMENDMENT ORDINANCE, 1950

No. XXXI of 1950

An Ordinance further to amend the Essential Supplies (Temporary Powers) Act, 1946.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(*1*) This Ordinance may be called the Essential Supplies (Temporary Powers) Amendment Ordinance, 1950.

(*2*) It shall come into force at once.

2. *Amendment of section 3, Act XXIV of 1946.*—During the period of operation of this Ordinance, the Essential Supplies (Temporary Powers) Act, 1946, shall have effect as if in section 3—

(*a*) in sub-section (*1*), for the words "notified order" the word "order" had been substituted;

(*b*) after sub-section (*1*), the following sub-section had been inserted, namely:—

"(*1A*) An order made under sub-section (*1*) shall,—

(*a*) in the case of an order of a general nature or affecting a class of persons, be notified in the official Gazette; and

(*b*) in the case of an order affecting an individual person, be served on such person—

(i) by delivering or tendering it to that person, or

(ii) by affixing it on the outer door or some other conspicuous part of the premises in which that person lives."

RAJENDRA PRASAD,
President.

NOTIFICATION.

No. L.D. 2396—Legis. 2-50-45, Bangalore, dated 22nd November 1950.

Ordered that the accompanying the Indian Tariff (Second Amendment) Ordinance, 1950 (XXXII of 1950) published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated the 8th

November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF LAW

THE INDIAN TARIFF (SECOND AMENDMENT) ORDINANCE, 1950

No. XXXII of 1950

An Ordinance further to amend the Indian Tariff Act, 1934.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Indian Tariff (Second Amendment) Ordinance, 1950.

2. It shall come into force at once.

2. *Amendment of the Second Schedule, Act XXXII of 1934.*—During the period of operation of this Ordinance, the Indian Tariff Act, 1934 (hereinafter referred to as the said Act), shall have effect as if, in the Second Schedule to the said Act,—

(*a*) in the last column of Item No. 3 for the entry "Rs. 100", the entry "Rs. 400" had been substituted;

(*b*) after Item No. 3 the following Item had been inserted, namely:—

"3(1)	Cotton waste (all sorts)	...	50 per cent *ad valorem*";

(*c*) the following Item had been inserted at the end, namely:—

"12	Raw wool	...	30 per cent. *ad valorem*".

3. *Export duty not leviable on raw wool in certain cases.*—Notwithstanding anything contained in the said Act, as amended by this Ordinance, no export duty shall be leviable on raw wool which is exported from India within a period of thirty days from the commencement of this Ordinance under and in accordance with the conditions of a licence issued before such commencement by competent authority.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

NOTIFICATION 370

No. L.D. 2429—Legis. 2-50-46, Bangalore, dated 25th November 1950.

Ordered that the accompanying Indian Tariff (Amendment) Ordinance, 1950 (XXX of 1950) published in the *Gazette of India*, Part II, Section 1, dated the 21st October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF LAW.

New Delhi, the 21st October, 1950

THE INDIAN TARIFF (AMENDMENT) ORDINANCE, 1950.
No. XXX of 1950.

An Ordinance further to amend the Indian Tariff Act, 1934.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Indian Tariff (Amendment) Ordinance, 1950.

(2) It shall come into force at once.

2. **Amendment of the Second Schedule, Act XXXII of 1934.**—During the period of operation of this Ordinance, the Indian Tariff Act, 1934, shall have effect as if, in the last column of sub-item (ii) of Item No. 2 of the Second Schedule to that Act, for the entry "Rs. 350", the entry "Rs. 750" had been substituted.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

PART IV 371

Section 1-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 2021—Legis. 4-50-50, dated Bangalore, the 5th October 1950.

Ordered that the accompanying Notification No. S. R. O. 341, dated 6th August 1950 of the Ministry of Home Affairs Draft Amendments to the Registration of Foreigners Rules, 1939, published in the *Gazette of India*, Part II, Section 3, dated the 12th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

New Delhi, the 6th August 1950.

S. R. O. 341.—The following draft of certain further amendments to the Registration of Foreigners Rules, 1939, which it is proposed to make in exercise of the powers conferred by Section 3 of the Registration of Foreigners Act, 1939 (XVI of 1939), is published, as required by the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 12th September 1950.

Any objections or suggestions which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendments.

I. In rule 4 of the said Rules, the words "and, if he is a foreigner", shall be omitted.

II. In form E annexed to the said Rules, the brackets, words and figures "(columns 1 and 2 to be completed in respect of all passengers; columns 3 to 6 foreigners only)" shall be omitted.

[No. 147/49-F.I.]

FATEH SINGH, Dy. Secy.

NOTIFICATION.372

No. L.D. 2021—Legis. 3-50-56, Bangalore, dated the 5th October 1950.

Ordered that the accompanying Notification No. S.R.O. 450, dated the 16th August 1950 of the Ministry of Communications (Posts and Telegraphs) amending the Indian Post Office Rules, 1933 published in the *Gazette of India*, Part II, Section 3, dated the 26th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMUNICATIONS.

(Posts and Telegraphs)

New Delhi, the 16th August 1950.

S.R.O. 450.—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government is pleased to direct that the following further amendment shall be made to the Indian Post Office Rules, 1933, namely :—

In rule 5 of the said rules after the entries below the heading "Printed papers (including newspapers and books)" the following new heading and entries shall be added, namely—

"*Express delivery unregistered letters, postcards and book packets.*

Express delivery unregistered letters or postcards or book packets.....	Annas six in addition to the postage for the same article when not intended for express delivery."

[C. 70. 16/47].

K. V. VENKATACHALAM, Dy. Secy.

NOTIFICATION.

No. L.D. 2022—Legis. 3-50-57, Bangalore, dated the 5th October 1950.

Ordered that the accompanying Notification No. S.R.O. 448, dated the 9th August 1950 of the Ministry of Rehabilitation amending the Permit System Rules, 1949 and No. S.R.O. 449, dated the 26th August, 1950 amending the Displaced Persons (Registration of

Claims) Rules, 1950 published in the *Gazette of India*, Part II, Section 3, dated the 26th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF REHABILITATION.

New Delhi, the 9th August 1950.

S.R.O. 448.—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), the Central Government is pleased to direct that the following further amendment shall be made in the Permit System Rules, 1949, namely :—

In each of Forms A and B set out in Appendix 1 to the said Rules, for item 13, the following item shall be substituted namely :—

13. The date from and the period for which the permit is required.

[No. III/PMT (X-4)/50-N(11).]

M. L. PURI, Under Secy.

New Delhi, the 26th August 1950.

S.R.O. 449.—In exercise of the powers conferred by section 16 of the Displaced Persons (Claims) Act, 1950 (XLIV of 1950), the Central Government is pleased to direct that the following further amendment shall be made in the Displaced Persons (Registration of Claims) Rules, 1950 :—

To rule 4 of the said rules, the following proviso shall be added, namely :—

Provided that where the claimant resides outside India, the claim may be accompanied by a receipt for the amount of the fee issued by an officer authorised in this behalf by the Representative of India in the country where the claimant resides.

[No. 1(6)/JCCC/50.]

S. B. CAPOOR, Joint Secy.

NOTIFICATION 374

No. L.D. 2023—Legis. 6-50-46, Bangalore, dated 5th October 1950.

Ordered that the accompanying Notification No. S.R.O. 441, dated the 26th August 1950 of the Ministry of Commerce under the Emblems and Names (Prevention of Improper Use) Act, 1950 published in the *Gazette of India*, Part II, Section 3, dated the 26th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF COMMERCE.

New Delhi, the 26th August 1950.

S.R.O. 441.—In exercise of the powers conferred by sub-section (3) of section 1 of the Emblems and Names (Prevention of Improper Use) Act, 1950 (XII of 1950), the Central Government is pleased to appoint the 1st September 1950, as the date on which the said Act shall come into force.

[No. 141 (1)/Law-B-50.]

H. C. SARIN, Dy. Secy.

NOTIFICATION

No. L.D. 2024—Legis. 6-50-45, Bangalore, dated the 5th October 1950.

Ordered that the accompanying Notification No. S.R.O. 428, dated the 17th August 1950 of the Ministry of Home Affairs under the Indian Passport Act and Rules published in the *Gazette of India*, Part II, Section 3, dated the 26th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF HOME AFFAIRS. 375

New Delhi, the 17th August 1950.

S.R.O. 428.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President is pleased to entrust to the Governments of Jammu and Kashmir, Madhya Bharat, Mysore, Patiala and East Punjab States Union, Saurashtra and Travancore-Cochin, with their consent, the functions of the Central Government under Section 5 of the Indian Passport Act, 1920 (XXXIV of 1920), and rule 2 of the Indian Passport Rules, 1950.

[No. 4/8/49-(A)-F.I.]

FATEH SINGH, Dy. Secy.

NOTIFICATION.

No L.D. 2028—Legis. 4-50-51, dated Bangalore, the 5th October 1950.

Ordered that the accompanying Notification No. S. R. O. 353, and 354, dated 12th August 1950 of the Ministry of Finance—Central Board of Revenue—Draft Amendments to Indian Income-tax Rules, 1932, published in the *Gazette of India*, Part II, Section 3, dated the 12th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

INCOME-TAX

New Delhi, the 12th August 1950

S. R. O. 353.—The following draft of certain further amendments to the Indian Income-tax Rules, 1922, which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published, as required by sub-section (4) of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 15th September 1950. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

Draft Amendments.

In rule 36 A of the said Rules—

1. In the form of Application for Refund of Income-tax/Super-tax set out in sub-rule (a)—

(i) in the declaration, for the words, brackets and figures "a British subject (see note 2)/subject of.....State, being a State in India or Burma (see note 3)" the words, brackets and figures "a citizen of India/British subject (see notes 2 and 3)" shall be substituted;

(ii) for Notes 1 and 3, the following Notes shall respectively be substituted, namely:

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"NOTE 1.—The above declaration shall be sworn (a) before a Justice of Peace, a Notary Public or Commissioner of Oaths, if the applicant for refund resides in any part of the Commonwealth outside India (b) before a British Consul if he resides elsewhere". and

"NOTE 3.—If the applicant is neither a citizen of India nor a British subject he should delete the first sentence in the above verification".

2. In the form of Application for Refund of Income-tax/Super-tax set out in sub-rule (b)--

(i) in the declaration, for the words, brackets and figures "a British subject (see Note 1)/subject of..... State, being a State in India or Burma (see note 2)" the words, brackets and figures "a citizen of India/British subject (see notes 1 and 2)" shall be substituted;

(ii) for Note 2, the following Note shall be substituted, namely.—

"NOTE 2.—If the applicant is neither a citizen of India nor a British subject he should delete the first sentence in the above verification".

[No. 89.]

S. R. O. 354.—The following draft of certain further amendments to the Indian Income-tax Rules, 1922, which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of Section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 11th September 1950. Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

Draft Amendments.

In the said Rules—

(i) In Rules 16 for the words and figures 'Rs. 1,600' the words and figures 'Rs. 3,000' shall be substituted.

(ii) In Rule 17 for the words and figures 'Rs. 1,600' wherever they occur in the certificate at the end of the form the words and figures 'Rs. 3,000' shall be substituted.

[No. 90.]

PYARE LAL, Secy.

NOTIFICATION.

No. L. D. 2029—Legis. 3-50-52, Bangalore, dated the 5th October 1950.

Ordered that the accompanying Notification No. S. R. O. 365, dated 29th July 1950 of the Ministry of Rehabilitation amending the Permit System Rules, 1949, published in the *Gazette of India*, Part II, Section 3, dated the 12th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF REHABILITATION

New Delhi, the 29th July 1950. 397

S. R. O. 365.—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), the Central Government is pleased to direct that the following further amendment shall be made in the Permit System Rules, 1949, namely :—

To rule 29 of the said Rules, the following shall be added, namely :—

"No person whose permit has been so cancelled shall stay in India for a period exceeding fifteen days from the date of cancellation of the permit".

[III/PMT(X-4)/50-N-10].

V. D. DANTYAGI, Joint Secy.

NOTIFICATION.

No. L.D. 2082—Legis. 3-50-55, Bangalore, dated the 5th October 1950.

Ordered that the accompanying Notification No. S.R.O. 416, dated the 11th August 1950 of the Ministry of Rehabilitation amending the Displaced Persons (Registration of Claims) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 19th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF REHABILITATION.

Delhi, the 11th August 1950.

S.R.O. 416—In exercise of the powers conferred by section 15 of the Displaced Persons (Claims) Act, 1950 (XLIV of 1950), the Central Government is pleased to direct that the following amendments shall be made in the Displaced Persons (Registration of Claims) Rules, 1950 :—

In the said rules :—

(1) In rule 3 :—

For sub-rule (3) the following sub-rule shall be substituted, namely :—

"(3) Every such claim may be submitted by registered post or may be presented in person or through an agent :

Provided that in the case of a minor or other person under disability the claim shall be made through a guardian or next friend."

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(2) In rule 5—

(i) For sub-rule (2), the following sub-rule shall be substituted, namely :—

"(2) Where the Registering Officer is of the opinion that the claim is not in the proper form, he may—

(*a*) if the claim has been presented personally, return it to the person presenting it for complying with such objections and within such period as the Registering Officer may, by order, specify ;

(*b*) if the claim has been submitted through post, send a communication under a certificate of posting to the displaced person informing him of the defect or defects in the claim form and directing him to attend the registering centre on or before a specified date in order to rectify the defect or defects pointed out."

(ii) For sub-rule (3), the following sub-rule shall be substituted, namely :—

"(3) Where the objections have been complied with, the Registering Officer shall register the claim in the manner provided in sub-rule (1) of rule (5)."

[1 (*6*) JCCC/50.]

S. B. CAPOOR,
Joint Chief Claims Commissioner and Joint Secretary to Govt. of India.

NOTIFICATION.

No. L.D. 2116—Legis. 4-50-61, Bangalore, dated 6—13th October 1950.

Ordered that the accompanying Notification No. S.R.O. 605, dated 16th September 1950, of the Ministry of Finance amending the Central Opium Rules, 1934 published in the *Gazette of India*, Part II, Section 3, dated the 16th September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF FINANCE (REVENUE DIVISION).

OPIUM.

New Delhi, the 16th September 1950.

S.R.O. 605.—In exercise of the powers conferred by sub-section (2) of section 5 of the Dangerous Drugs Act, 1930 (II of 1930), the Central Government is pleased to direct that the following further amendments shall be made in the Central Opium Rules, 1934, namely :—

In the said rules—

I. In rule 1—

(i) for sub-rule (1-A) the following sub-rule shall be substituted, namely :—

"(1-A) They extend to the whole of India except the State of Jammu and Kashmir."

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(ii) for sub-rule (3) the following sub-rule shall be substituted, namely :—

"(3) In these rules 'poppy' means the species Papaver Somniferum L."

II. In rule 2—

(i) for the words and letters "Part A States and Part C States," the words "any State to which these rules apply" shall be substituted;

(ii) for clause (a) the following clause shall be substituted namely :—

"(a) within such tracts in Uttar Pradesh, Madhya Bharat, Rajasthan, Himachal Pradesh and Bilaspur as the Central Government may from time to time by notification in the *Gazette of India* define in this behalf; and"

III. In rule 3, for the words "Uttar Pradesh and Himachal Pradesh," the words "Uttar Pradesh, Madhya Bharat, Rajasthan, Himachal Pradesh and Bilaspur" shall be substituted.

IV. In rule 5, for the words and letters "Part A States and Part C States save in the Uttar Pradesh," the words "any State to which these rules apply save in Uttar Pradesh, Madhya Bharat, Rajasthan and Bilaspur," and for the words "Government Factory at Ghazipur" wherever they occur, the words "Government Factories at Ghazipur, Neemuch and Kotah" shall be substituted.

V. For rule 6, the following rule shall be substituted, namely :—

"6. Opium shall not be manufactured in—

(i) Uttar Pradesh save by officers of the Opium Department at the Government Factory at Ghazipur;

(ii) Madhya Bharat save by officers of the Opium Department at the Government Factory at Neemuch;

(iii) Rajasthan save by officers of the Opium Department at the Government Factory at Kotah; and

(iv) Bilaspur save by officers of the Excise Department of Bilaspur State.

Provided that opium mixtures may be manufactured from raw opium lawfully possessed by persons authorised by the State Government concerned."

VI. For rule 7, the following rule shall be substituted, namely :—

"7. Sale for export.—The sale of opium from the Government Factories at Ghazipur, Neemuch and Kotah for export is prohibited save when the export is on behalf of the Central Government."

VII. For rule 8, the following rule shall be substituted, namely :—

"8. Sale to State Governments.—The sale of opium from the Government Factories at Ghazipur, Neemuch and Kotah to a State Government is prohibited save under the orders of the Central Government."

[No. 7]

D. P. ANAND, Dy. Secy.

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NOTIFICATION.

No. L.D. 2114—Legis. 4-50-59, Bangalore, dated 13th October 1950.

Ordered that the accompanying Notification No. S. R. O. 481 and 482 dated 28th August 1950 of the Ministry of Railways amending the Railway Accidents (Compensation) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 2nd September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF RAILWAYS.

(RAILWAY BOARD).

New Delhi, the 28th August 1950.

S.R.O. 481.—In exercise of the powers conferred by section 82-J of the Indian Railways Act, 1890 (IX of 1890), the Central Government is pleased to direct that the following amendment shall be made in the Railway Accidents (Compensation) Rules, 1950, namely:—

In rule 3 of the said rules—

(*a*) In clause (*b*) the words "a joint judge or an additional district judge" shall be omitted.

(*b*) In clause (*c*), the words "or an additional district magistrate" shall be omitted.

(*c*) The following explanation shall be added, namely:—

Explanation.—In this rule and the next succeeding rule, the expression "district judge" includes a joint judge and an additional district judge and the expression "district magistrate" includes a deputy commissioner, a chief presidency magistrate, an additional chief presidency magistrate and an additional district magistrate.

[No. 893-TG.]

S.R.O. 482.—In exercise of the powers conferred by section 82-B of the Indian Railways Act, 1890 (IX of 1890), the Central Government is pleased to appoint in respect of each of the States specified in column 1 of the Schedule hereto annexed the officer or officers specified in column 2 thereof as the *Ex-officio* Claims Commissioner or Commissioners for enquiring into and determining all claims for compensation arising out of minor accidents occurring within his or their respective jurisdiction.

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THE SCHEDULE.

Name of State	*Designation of officer*
1. Travancore-Cochin ...	1. District Magistrate, Trivandrum.
	2. District Magistrate, Quilon.
	3. District Magistrate, Trichur.
2. Himachal Pradesh ...	1. District Magistrate, Mahasu.
3. Ajmer ...	1. District Judge, Ajmer.
4. Uttar Pradesh ...	1. Additional District Magistrate (Judicial), Muzaffarnagar.
	2. Additional District Magistrate, (Judicial), Bulandshahr.
	3. Additional District Magistrate (Judicial), Mathura.
	4. Additional District Magistrate (Judicial), Mainpuri.
	5. Additional District Magistrate (Judicial), Bareilly.
	6. Additional District Magistrate (Judicial), Bijnor.
	7. Additional District Magistrate (Judicial), Badaun.
	8. Additional District Magistrate (Judicial), Moradabad
	9. Additional District Magistrate (Judicial), Shahjahanpur.
	10. Additional District Magistrate (Judicial), Farrukhabad.
	11. Additional District Magistrate (Judicial), Fatehpur.
	12. Additional District Magistrate (Judicial), Jhansi.
	13. Additional District Magistrate (Judicial), Lucknow.
	14. Additional District Magistrate (Judicial), Unnao.
	15. Additional District Magistrate (Judicial), Rae Bareli.
	16. Additional District Magistrate (Judicial), Sitapur.
	17. Additional District Magistrate (Judicial), Gonda.
	18. Additional District Magistrate (Judicial), Bahraich.
	19. Additional District Magistrate (Executive), Saharanpur.
	20. Additional District Magistrate (Executive), Meerut.
	21. Additional District Magistrate (Executive), Agra.
	22. Additional District Magistrate (Executive), Kanpur.
	23. Additional District Magistrate (Executive), Allahabad.
	24. Additional District Magistrate (Executive), Banaras.
	25. Additional District Magistrate (Executive), Gorakhpur.
	26. District Magistrate, Dehra Dun.
	27. District Magistrate, Aligarh.
	28. District Magistrate, Etah.
	29. District Magistrate, Rampur.
	30. District Magistrate, Pilibhit.
	31. District Magistrate, Etawah.
	32. District Magistrate, Jalaun.
	33. District Magistrate, Hamirpur.
	34. District Magistrate, Banda.
	35. District Magistrate, Mirzapur.
	36. District Magistrate, Jaunpur.
	37. District Magistrate, Ghazipur.

Uttar Pradesh (*concld.*)	38.	District Magistrate, Balia.
	39.	District Magistrate, Deoria.
	40.	District Magistrate, Basti.
	41.	District Magistrate, Azamgarh.
	42.	District Magistrate, Naini Tal.
	43.	District Magistrate, Almora
	44.	District Magistrate, Garhwal.
	45.	District Magistrate, Tehri-Garhwal.
	46.	District Magistrate, Hardoi.
	47.	District Magistrate, Kheri.
	48.	District Magistrate, Faizabad.
	49.	District Magistrate, Sultanpur.
	50.	District Magistrate, Pratapgarh.
	51.	District Magistrate, Bara Banki.
5. Madras	1.	District Judge, Anantapur.
	2.	District Judge, North Arcot, Vellore.
	3.	District Judge, South Arcot, Cuddalore.
	4.	District Judge, Bellary.
	5.	District Judge, Chingleput.
	6.	District Judge, Chittoor.
	7.	District Judge, Coimbatore.
	8.	District Judge, Cuddapah.
	9.	District Judge, East Godavari, Rajahmundry.
	10.	District Judge, West Godavari, Eluru.
	11.	District Judge, Guntur.
	12.	District Judge, South-Kanara, Mangalore.
	13.	District Judge, Krishna, Massulipatnam.
	14.	District Judge, Kurnool.
	15.	District Judge, North Malabar, Tellicherry.
	16.	District Judge, South Malabar, Kozhikode.
	17.	District Judge, Mathurai.
	18.	District Judge, Nellore.
	19.	District Judge, Ramanathapuram at Mathurai.
	20.	District Judge, Salem.
	21.	District Judge, East Tanjore, Nagapattinam.
	22.	District Judge, West Tanjore, Tanjore.
	23.	District Judge, Tiruchirapalli.
	24.	District Judge, Tirunelveli.
	25.	District Judge, Visakhapatnam.
6 Punjab	1.	District Magistrate, Hissar.
	2.	District Magistrate, Rohtak.
	3.	District Magistrate, Gurgaon.
	4.	District Magistrate, Karnal.
	5.	District Magistrate, Ambala.
	6.	District Magistrate, Kangra at Dharamsala.
	7.	District Magistrate, Hoshiarpur.
	8.	District Magistrate, Jullundur.
	9.	District Magistrate, Ludhiana.
	10.	District Magistrate, Ferozepur.
	11.	District Magistrate, Amritsar.
	12.	District Magistrate, Gurdaspur.
	13.	District Magistrate, Simla.
7. Bhopal	1.	District Magistrate, Raisen.
	2.	District Magistrate, Sehore.
	3.	Additional District Magistrate, Bhopal.

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8. Vindhya Pradesh	...	1. District Judge, Rewa *cum* Sidhi. 2. District Judge, Satna *cum* Umaria. 3. District Judge, Chhatarpur *cum* Panna. 4. District Judge, Tikamgarh *cum* Datia.
9. Mysore	...	1. Principal District Judge, Mysore Division. 2. Principal District Judge, Bangalore Division. 3. District Judge, Civil Station, Bangalore. 4. District Judge, Shimoga Division.
10. Madhya Pradesh	...	1. District and Sessions Judge, Nagpur. 2. District and Sessions Judge, Wardha. 3. District and Sessions Judge, Khandwa. 4. District and Sessions Judge, Jabalpur. 5. District and Sessions Judge, Raipur. 6. District and Sessions Judge, Hoshangabad. 7. District and Sessions Judge, Durg at Rajnandgaon. 8. District and Sessions Judge, Raigarh. 9. District and Sessions Judge, Chhindwara. 10. District and Sessions Judge, East Berar, Amravati. 11. District and Sessions Judge, West Berar, Akola.
11. Orissa	...	1. District Magistrate, Cuttack. 2. District Magistrate, Puri. 3. District Magistrate, Balasore. 4. Deputy Commissioner, Sambalpur. 5. District Magistrate, Ganjam. 6. District Magistrate, Koraput. 7. District Magistrate, Mayurbhanj. 8. District Magistrate, Dhenkanal. 9. District Magistrate, Sundergarh. 10. District Magistrate, Keonjhar. 11. District Magistrate, Bolangir. 12. District Magistrate, Kalahandi. 13. District Magistrate, Khondmals.

[No. 893-TG/1.]

S. S. RAMASUBBAN, *Secy.*

NOTIFICATION.

No. L.D. 2115—Legis. 4-50-60, dated Bangalore, 13th October 1950.

Ordered that the accompanying Notification No. S.R.O. 485, dated the 29th August 1950 of the Ministry of Communications (Posts and Telegraphs), amending the Indian Telegraph Rules, 1932, published in the *Gazette of India*, Part II, Section 3, dated the 2nd

September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMUNICATIONS.

(POSTS AND TELEGRAPHS).

New Delhi, the 29th August 1950.

S.R.O. 485.—In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Telegraph Rules, 1932, namely :—

At the end of rule 162 of the said Rules, the following shall be added, namely:—

"For inland press telegrams to several addresses within India served by different telegraph offices not within the free delivery radius of a Central Telegraph Office, the charges will be :—

(i) for the first address in the first telegraph office ; as for a single inland press telegram under rule 157 ;

(ii) for the first address in the second telegraph office : three-fourth of the charges in (i) above ;

(iii) for the first address in the third telegraph office: half of the charges in (i) above ; and

(iv) for the first address in the fourth and subsequent telegraph office : one-fourth of the charges in (i) above.

For each address after the first in all telegraph offices copying fee calculated at the rate of 5 annas for any number of chargeable words not exceeding 100 and 1 anna for each additional 20 words or part thereof shall be chargeable."

[R-2-10/50.]

K. V. VENKATACHALAM, *Dy. Secy.*

NOTIFICATION.

No. L.D. 2559—Legis. 6-50-49, dated Bangalore, 30th—31st October 1950.

Ordered that the accompanying Cotton Control Order, 1950, (S. R. O. 594 of the Ministry of Industry and Supply) published in the *Gazette of India*, Part II, Section 3 dated the 13th September 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

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MINISTRY OF INDUSTRY AND SUPPLY.

NOTIFICATIONS.

New Delhi, the 13th September 1950.

S R.O. 594.—In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946, (XXIV of 1946), the Central Government is hereby pleased to make the following Order, namely :—

1. (a) This Order may be called the Cotton Control Order, 1950.

(b) It extends to the whole of India except the State of Jammu and Kashmir.

(c) It shall come into force at once.

(d) The Cotton Control Order, 1949 and any order corresponding thereto in force in a Part B State is hereby repealed:

Provided that any order made, notification issued, right accrued, penalty incurred, or anything done under the said order or any corresponding order in force in a Part B State shall be deemed to have been made, issued, accrued incurred or done under the corresponding provisions of this order.

2. In this Order, unless the context otherwise requires,—

(a) "carrier" includes a railway administration or any other person engaged in the business of transporting property from one place to another by land, air or water;

(b) "Contract" means a contract made or to be performed in whole or in part in India relating to the sale or purchase of cotton ;

(c) "cotton" means—

(i) ginned cotton ; and

(ii) ginned and pressed cotton ;

and includes both Indian and foreign cotton ;

(d) "cotton ginning factory" shall have the same meaning as in the cotton Ginning and Pressing Factories Act, 1925 ;

(e) "foreign cotton" means cotton grown in any country outside India ;

(f) "form" means a form appended to this order ;

(g) "forward contract" means a contract for the delivery of cotton at some future date and which is not of the nature of a ready delivery contract ;

(h) "India" does not include the State of Jammu and Kashmir ;

(i) "Indian cotton" means cotton grown at any place in India ;

(j) "licensing authority" means an officer appointed in this behalf by a State Government for any specified area ;

(k) "manufacturer" means a manufacturer of yarn ;

(l) "option in Cotton" means a contract, by whatever name called, for the purchase or sale of a right to buy or sell or a right to buy and sell cotton in future and includes a *teji*, a *mandi* or a *teji-mandi* in cotton ;

(m) an article shall be deemed to be in the possession of a person when it is held on behalf of that person by another person or when held by that person on behalf of another person ;

(n) the expressions "yarn" and "Textile Commissioner" shall have the same meaning as they have in the Cotton Textiles (Control) Order, 1948.

3. (1) The Textile Commissioner may fix the maximum and the minimum prices at which any cotton or kapas or cotton seed may be sold or purchased.

(2) Where the maximum and minimum prices have been fixed as aforesaid in respect of any cotton or kapas or cotton seed, no person shall sell or offer to sell or purchase or offer to purchase any such cotton or kapas or cotton seed at a price exceeding the maximum or lower than the minimum price so fixed.

(4) Except in the cases excluded from the operation of this clause under clause 6, no person shall enter into .

(a) any contract ; or

(b) any option in cotton.

(5) All contracts and options in cotton entered into or made after the commencement of this Order in contravention of clause 4 shall be void.

6. The Textile Commissioner may by general order and subject to such restrictions and conditions as he may prescribe exclude from the operation of clause 4 any class or description of contracts.

7. (1) The Textile Commissioner may specify the maximum quantity of any description of cotton which a manufacturer may buy during a specified period or within a specified area or which at any time he may have in his possession.

(2) No manufacturer shall buy or have in his possession a quantity of any cotton exceeding the maximum quantity specified as aforesaid.

8. Without prejudice to any order made under sub-clause (1) of clause 7, where, at any time, in the opinion of the Textile Commissioner, any manufacturer has in his possession a quantity of cotton in excess of the quantity which would reasonably be required by him for manufacturing yarn in the next six months, it shall be open to the Textile Commissioner, to the extent of such excess, to direct such manufacturer to sell such quantity of the excess cotton at such price and on such conditions as may be specified ; and every manufacturer shall comply with such direction.

9. No person shall purchase, sell, store or carry on business in cotton or shall hold cotton in hypothecation or against a pledge except under and in accordance with the conditions of a licence in Form " A ".

Exception.—Nothing in this clause shall apply—

(a) to a manufacturer :

(b) to a person who purchases or stores cotton for his own use and not for the purpose of sale and who does not at any time have in his possession a quantity of cotton exceeding 24 bales of ginned and pressed cotton or boras of ginned cotton.

10. Any person desiring a licence shall make an application to the appropriate Licensing Authority of his State in Form " B ".

11. Every licence granted under this Order shall be valid for the period specified in the licence but may be renewed from time to time for a period of one year. The fee charged for the grant or renewal of a licence shall be Rs. 25 : provided that in respect of any one year no person shall be liable to pay more than Rs. 25 for the grant or renewal of any number of licences within the same State and the amount paid by him in excess of Rs. 25 shall, on application in that behalf, be refunded to him by the State Government.

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12. If a licence granted under this Order is lost or destroyed the Licencing Authority may after making such enquiry as it may deem fit, issue a duplicate licence on payment of a fee of Rs. 5.

13. (1) No person being the holder of a licence issued under this Order shall contravene any of the conditions mentioned in the licence and if any such person contravenes any of the said conditions, then without prejudice to any other remedy his licence may be cancelled by the Licencing Authority.

(2) Notwithstanding anything contained in sub-clause (1) the Licensing Authority may without previous notice or without assigning any reasons suspend or cancel a licence issued under this Order and such cancellation or suspension shall not entitle the licensee to any compensation or the refund of any fees paid in respect of any such licence.

14. (1) The Textile Commissioner may with a view to securing a proper distribution of cotton or with a view to securing compliance with this Order direct any person holding stocks of cotton or any class of such persons—

(a) to sell to such person or persons such quantities of such description of cotton as the Textile Commissioner may specify;

(b) not to sell or deliver cotton of a specified description except to such person or persons and subject to such conditions as the Textile Commissioner may specify; and may issue such further instructions as he thinks fit regarding the manner in which the direction is to be carried out.

(2) The Textile Commissioner may direct any person to furnish samples of any cotton in his possession; and may issue such further instructions as he thinks fit regarding such samples.

(3) Every person, to whom a direction or instruction is issued under this clause, shall comply with any such direction or instruction.

15. The Textile Commissioner may appoint any person or persons to advise him for the purpose of fixing the exact value of the cotton directed to be sold under any of the provisions of this Order in regard to any case or classes of cases.

16. The Textile Commissioner may make regulations—

(a) prescribing the form of application for manufacturers who desire assistance from the Textile Commissioner for the purpose of obtaining supplies of cotton;

(b) regarding the payment of the price and survey and other expenses including the deposit of any amount as earnest money in respect of such assistance: and

(c) generally, as regards the procedure to be followed in giving effect to such applications.

17. (1) The Textile Commissioner may direct any person holding stocks of kapas to get it ginned before a specified date and every such person shall comply with such direction.

(2) The Textile Commissioner may by a general order prohibit from such date or dates as may be specified in the order the possession of any kapas of a specified description or in a specified area except under and in accordance with the permission in writing of the Textile Commissioner.

(3) Notwithstanding anything contained in this clause, no manufacturer shall purchase or otherwise acquire kapas: provided that a manufacturer who is the owner or lessee of a cotton ginning factory acquired by him by purchase, lease or in any other manner under a document registered before the 1st September, 1950, may be permitted by the Textile Commissioner, subject to such conditions as he may specify, to purchase such quantity of kapas as, considering the ginning capacity of such factory, is capable of being ginned at that factory.

18. The Textile Commissioner may be general or special order prohibit the transport of cotton from any place within any area to any place outside that area by rail, road or water except under such conditions, limitations and restrictions as may be specified in such order.

19. The Textile Commissioner may by order in writing direct any carrier to close the booking and transport of any cotton by rail, road or water between such places and for such period as may be specified in the order and such carrier shall comply with the order.

20. The Textile Commissioner may with a view to securing compliance with this Order—

(a) require any person to give any information in his possession with respect to any business carried on by that or any other person;

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of any person;

(c) enter and search or authorise any person to enter and search any premises and seize or authorise any person to seize any article in respect of which he has reason to believe a contravention of this Order has been committed and any other article in the premises which he has reason to believe has been or is intended to be used in connection with such contravention.

21. Every person who is required to give any information under clause 20 shall comply with such requisition.

22. (1) Every manufacturer shall submit to the Textile Commissioner before the 12th October 1950 and thereafter before the 12th day of every succeeding month a return in Form "D" giving all the particulars specified therein.

(2) Every manufacturer shall submit to the Textile Commissioner, for the first fortnight of October 1950 and for every fortnight thereafter, a return in Form "E" giving all the particulars specified therein. The return should reach the Textile Commissioner not later than 7 days after the completion of the fortnight.

23. The Textile Commissioner, with the previous sanction of the Central Government, may by general or special order in writing authorise any officer to exercise on his behalf all or any of his functions and powers under this Order.

FORM 'A'

(See clause 9)

The Cotton Control Order, 1950 Licence for purchase, sale or storage or for carrying on business in cotton or for holding cotton in hypothecation or against pledge.

Subject to the provisions of the Cotton Control Order, 1950 (hereinafter referred to as the "said order") and to the terms and conditions of this licence. is/are

hereby authorised to purchase, sell, store, carry on business in cotton or hold cotton in hypothecation or against pledge.

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2. The Licensee shall carry on the aforesaid business at the following place(s) :—

3. The licensee shall maintain a register of daily accounts in respect of each description of cotton in which he deals, showing correctly—

(a) the opening stock on each day ;

(b) the quantities received on each day showing the place of origin and the name and address of the person from whom received ;

(c) the quantities sold, delivered or otherwise removed on each day showing the place of destination, the name and address of the person to whom they are sold or delivered, or for whom they are removed ;

(d) the closing stock on each day.

4. The licensee shall in respect of each description of cotton submit to the appropriate licensing authority or any other officer authorised by it in this behalf within five days of the completion of each fortnight, a true return in Form 'C'.

5. The licensee shall not sell, hypothecate or pledge cotton to any person who does not hold a licence under the said Order or is not otherwise authorised to purchase cotton.

6. The licensee shall issue to every customer a correct receipt or invoice as the case may be, giving his own name, address and licence number, the name, address and licence number of the customer, the date of transaction, the quantity sold, the rate per khandy and the total amount charged and shall keep a duplicate of the same available for inspection on demand by the licensing authority or any officer authorised by such authority in this behalf.

7. The licensee shall give all facilities at all reasonable times to the licensing authority or any officer authorised by such authority in this behalf, for the inspection of his stocks and accounts at any shop, godown or other place used by him for the storage or sale of cotton and for taking samples of cotton for examination.

8. The licensee shall comply with any directions that may be given to him in regard to the purchase, sale, storage, hypothecation or pledge of cotton and in regard to the language in which the registers, returns, receipts or invoices mentioned in paragraphs 3, 4 and 6 shall be maintained submitted or issued and in regard to the maintenance of the register mentioned in paragraph 3.

Signature of the Licensing Authority.

Date.....195

FORM 'B'

(*See* clause 10)

1. Applicant's name.
2. Applicant's occupation
3. Applicant's full address.
4. Situation of applicant's places of business and godowns and other places used by him for the sale or storage of cotton. (Detailed address of these places should be given).

I have carefully read the conditions of the licence given in Form 'A' appended to the Cotton Control Order, 1950, and I agree to abide by them.

Signature of the Applicant.

FORM 'C'

(*See* Paragraph 4 of Form 'A')

Return of stocks, receipts and sales of cotton for the fortnight ending.....

(To be submitted within five days after the close of each fortnight).

INSTRUCTION.—All figures should be in terms of bales of 400 lbs. weight each whether ginned or ginned and pressed and whether Indian cotton or foreign cotton.

Licensee's Name.....

Address.....

.....

Licence No.....

Variety of cotton	Opening Balance *i.e.*, Stocks at the beginning of the fortnight		Receipts during the fortnight	Total (Columns 2+3+4)	Sales during the fortnight	Deliveries during the fortnight	Closing Balance *i.e.*, stocks at the end of the fortnight	
	Bales sold but not delivered	Bales unsold					Bales sold but not delivered	Bales unsold
1	2	3	4	5	6	7	8	9
1. Bengal Deshi ...								
2. Oomras short staple—								
(*a*) Oomra Deshi ...								
(*b*) C. P. I. & II ...								
(*c*) Central India Deshi ...								
3. Oomras long staple—								
(*a*) Jarilla ...								
(*b*) Gaorani, 6 & 12 ...								
(*c*) Parbhani—American ...								
(*d*) Buri ...								

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| | | |

FORM "D"

(*See* Clause 22 (1) of the Cotton Control Order, 1950).

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND SUPPLY

OFFICE OF THE TEXTILE COMMISSIONER, BOMBAY

Monthly return of stocks, consumption and sales of Cotton, Cotton Waste (Soft Waste) and Staple Fibre as on.....

INSTRUCTIONS

1. This form should be completed in accordance with the instructions given below and sent to the Office of the Textile Commissioner, Cotton Branch, Sudama House, Ballard Estate, Bombay, so as to reach on or before the 12*th of every month* giving the position as on the last date of the previous month. Mills are advised in their own interests to post the returns under a certificate of posting or registered with acknowledgment due. *Failure to submit the return by the due date will render you liable to prosecution.*

2. *Cotton.*—(*a*) All figures should be in terms of bales 400 lbs. weight each whether ginned or ginned and pressed and whether Indian cotton or Foreign cotton.

(*b*) The descriptions of Indian cotton should correspond to the definitions in the Textile Commissioner's Notification No. 1 (57) Tex-2/50 dated 21st August 1950.

3. *Cotton Waste (Soft Waste).*—

(*a*) The Cotton Waste (Soft Waste) referred to means all kinds of cotton waste such as droppings, fly strippings, bondas and all other kinds of Waste from the Blow Room, Carding Engine, Comber, Inter Slubbing and Roving Frames.

(*b*) All figures of Cotton Waste (Soft Waste) should be expressed in cwts.

4 *Staple Fibre.*—All figures should be expressed in lbs.

Mill's Name.....date.....

Mill's Full Address.....

Mill's Telegraphic Address.....No. of shift worked during the month.....

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Description of Cotton	Stocks on 31-8-50 wherever stored, whether within or outside the town where the mill is situated.	Total stocks acquired since 1-9-50 wherever stored, whether within or outside the town where the mill is situated.	Total stocks received on loan and/or replacement of loan or transfer from 1-9-1950.	Total consumption since 1-9-1950.	Total sales since 1-9-1950.	Total stocks loaned and/or transferred from 1-9-1950.	Total stocks burnt or otherwise destroyed from 1-9-1950.	Stocks on the last date of the month.		
								Within the town where the mill is situated.	Outside the town where the mill is situated.	Total
								(a)	(b)	(c)
1	2	3	4	5	6	7	8	9		
PART I.—INDIAN COTTON.										
1. Bengal Deshi ...										
2. Oomras short staple :—										
(a) Oomra Deshi ...										
(b) C. P. I. & II ...										
(c) Central India Deshi ...										
3. Oomras long staple :—										
(a) Jarillas ...										
(b) Gaorani, 6 and 12 ...										
(c) Parbhani-American ...										
(d) Buri ...										
4. Americans :—										
(a) East Punjab ...										
(b) Rajasthan ...										
5. Broach Vijay ...										
6. Surti ...										
7. Dholleras :—										
(a) Wagad										
(b) Kalagin										
(c) Mathia										
8. Westerns/Northerns :—										
(a) Mungari										
(b) Farm										
9. Coconadas/Warrangal ...										
10. Comptas :—										
(a) Jaywant										
(b) Upland										
11. (a) Cambodia										
(b) Karunganni										
12. Other Indian										
TOTAL INDIAN COTTON car ...										

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3-9-53

Description of Cotton	Stocks on 31-8-50 wherever stored, whether within or outside the town where the mill is situated	Total stocks acquired since 1-9-50 wherever stored, whether within or outside the town where the mill is situated.	Total stocks received on loan and/or replacement of loan or transfer from 1-9-1950.	Total consumption since 1-9-1950.	Total sales since 1-9-1950.	Total stocks loaned and/or transferred from 1-9-50.	Total stocks burnt or otherwise destroyed from 1-9-1950.	Stocks on the last day of the month.		
								Within the town where the mill is situated. (a)	Outside the town where the mill is situated. (b)	Total (c)
1	2	3	4	5	6	7	8	9		
PART II—FOREIGN COTTON										
Pakistan Cotton										
13. 4F										
14 L. S. S.										
15. 289F (Punjab)										
16. N. T. Sind										
TOTAL PAKISTAN COTTON ...										
17. *Egyptians*:—										
(a) Ashmouni										
(b) Zagoras										
(c) Giza 30										
(d) Giza 23										
(e) Karnak										
(f) Menoufi										
(g) Other Egyptians ...										
TOTAL EGYPTIANS ...										
18 Sudan Egyptians ...										
19. Sudan Americans ...										
20. East Africans										
21. Afghans										
22. Americans:—										
(a) U. S. A.										
(b) Peruvians										

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23. Brazilians ...											
24. Belgian Congo ...											
25. Other Foreign Cotton ...											
TOTAL FOREIGN COTTON ...											
GRAND TOTAL OF ALL COTTONS ...											
PART III—OTHER FIBRES.		(a) Own production (b) Purchases									
26. Cotton Waste (in cwts.) ...											
27. Staple Fibre (in lbs.) ...											

I do hereby declare that I have compared the above figures with the records and books of my mills and that they are, in so far as they go, certain and accurate.

Date.....

Signature of Owner/Managing Agent/Manager.

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FORM "E

[*See* Clause 22 (2) of the Cotton Control Order, 1950]

Return of purchases of Indian Cotton (Ginned or ginned and pressed) *for the fortnight ending*.....

Mill's Name.....

Mill's Full Address.....

Mill's Telegraphic Address.....

Date of purchase.	Seller's Name and Address and Licence (Form "A") No.	Location of Cotton.	Variety.	Details of Purchases of ginned cotton		Details of Purchases of ginned and pressed cotton	
				Quantity of ginned cotton in candies of 784 lbs.	Price paid for the ginned cotton per candy of 784 lbs.	Quantity in bales of 400 lbs.	Price paid per candy of 784 lbs.
1	2	3	4	5	6	7	8

I do hereby declare that I have compared the above figures with the records and books of my Mills, and that they are, in so far as they go, certain and accurate.

Dated.....

Signature of Owner/Managing Agent/Manager.

[No. 1(57)TEX-2/50(ii)]

B. K. KAUL,

Deputy Secretary.

NOTIFICATION.

No. L. D. 2428—Legis. 5-50-19, dated Bangalore, the 25th November 1950.

Ordered that the accompanying Constitution (Removal of Difficulties) Order No. VIII (C.O. 24) published in the *Gazette of India*, Part II, Section 3, dated the 25th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF LAW.

NOTIFICATION.

New Delhi, the 25th October 1950.

S. R. O. 820—The following Order made by the President is published for general information :—

C. O. 24

THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER NO. VIII

In exercise of the powers conferred by clause (1) of Article 392 of the Constitution of India, the President is pleased to make the following Order, namely :—

1. (1) This Order may be called the Constitution (Removal of Difficulties) Order No. VIII.

(2) It shall come into force at once.

2. For the period during which the tribal areas specified in Part B of the table appended to paragraph 20 of the Sixth Schedule to the Constitution or any parts thereof are administered by the President by virtue of sub-paragraph (2) of paragraph 18 of the said Schedule, the Constitution of India shall have effect subject to the following adaptations :—

(1) In Article 81,—

(*a*) to sub-clause (b) of clause (1), the following proviso shall be added :—

"Provided that the constituencies into which the State of Assam is divided shall not comprise the Tribal Areas specified in Part B of the table appended to paragraph 20 of the Sixth Schedule"; and

(*b*) in clause (2), after the words "not included within any State" the words, letter and figure "and of the Tribal Areas specified in Part B of the table appended to paragraph 20 of the Sixth Schedule" shall be inserted.

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(2) In Article 82, after the words "not included within any State" the words, letter and figure "and of the Tribal Areas specified in Part B of the table appended to paragraph 20 of the Sixth Schedule" shall be inserted.

(3) In Article 170, after clause (1), the following clause shall be inserted :—

"(1A) The constituencies into which the State of Assam is divided for the purposes of clause (1) shall not comprise the Tribal Areas specified in Part B of the table appended to paragraph 20 of the Sixth Schedule".

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secretary.

NOTIFICATION.

No. L. D. 2427—Legis. 5-50-18, Bangalore, dated 25th November 1950.

Ordered that the accompanying Notification No. S. R. O. 740, dated the 7th October 1950 of the Ministry of Law—The Constitution (Removal of Difficulties) Order No. VII (C. O. 23) published in the *Gazette of India*, Part II, Section 3, dated the 7th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF LAW.

NOTIFICATION.

New Delhi, the 7th October 1950.

S. R. O. 740.—The following Order made by the President is published for general information :

C. O. 23

THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER NO. VII.

In exercise of the powers conferred by clause (1) of Article 392 of the Constitution of India, the President is pleased to make the following Order, namely :—

1. (1) This order may be called the Constitution (Removal of Difficulties) Order No. VII.

(2) It shall be deemed to have come into force on the twenty-sixth day of January, 1950.

2. During the period of one year from the commencement of this Order, the Constitution of India shall have effect subject to the following adaptations, namely :—

(1) After clause (3) of Article 166, insert :—

"(4) Until rules are made by the Governor of a State under clause (2), or as the case may be, clause (3), the rules made by the Governor of the corresponding Province under sub-sections (2) and (3) of Section 59 of the Government of India Act, 1935, and in force immediately before the commencement of the Constitution, shall, *with the necessary adaptations and modifications*, continue in force, and be deemed to have been made under clause (2) and clause (3), respectively.

(2) After clause 6 of Article 238, insert :—

(6A) In article 166, for clause (4), the following clause shall be substituted, namely :—

"(4) Until rules are made by the Rajpramukh of a State under clause (2), or as the case may be, clause (3), the rules and orders made by the Rajpramukh of the corresponding Indian State and in force immediately before the commencement of the Constitution, in so far as they provide for the matters referred to in the said clauses, shall, with the necessary adaptations and modifications, continue in force and shall be deemed to be rules made under the said clauses".

RAJENDRA PRASAD,
President.

S. N. MUKERJEE, *Joint Secy.*

NOTIFICATION.

No. L.D. 2433—Legis. 6-50-52, Bangalore, dated 25th November 1950

Ordered that the accompanying Notification No. S.R.O. 821, dated 28th October 1950 of the Ministry of Industry and Supply amending the Notification No. S. R. O. 500, published in the *Gazette of India*, Part II, Section 3, dated the 28th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF INDUSTRY AND SUPPLY.

NOTIFICATION.

New Delhi, the 28th October 1950.

S.R.O. 821.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Ordinance (No. XXVI of 1950), the Central Government is pleased to direct that the following amendment shall be made in the Notification of

the Government of India in the Ministry of Industry and Supply No. S.R.O. 500, dated the 2nd September 1950, namely :—

To sub-clause (i) of clause (b) of the said Notification the following proviso shall be added, namely :—

"Provided that, in the case of a Hospital, Nursing Home, Maternity or Child Welfare Centre or Orphanage, a quantity not exceeding one month's normal requirements, based on the previous three months' actual consumption, may be sold on the production of a certificate to that effect by the Officer-in-Charge of any such institution."

ORDER

ORDERED that a copy of the above Notification be communicated to all Governments of Parts A and B States (except Jammu and Kashmir); all Chief Commissioners of Part C States including Andaman and Nicobar Islands; all Ministries of the Government of India; Cabinet Secretariat; Prime Minister's Secretariat; Secretary to the President; the Indian Trade Commissioners; all Indian Embassies; the High Commissioner for India, London; His Majesty's Trade Commissioner in India; all Chambers of Commerce and Associations; the Director of Commercial Intelligence and Statistics, Calcutta; the High Commissioner for India in Pakistan, Karachi; the High Commissioner for Pakistan in India, New Delhi; the Secretary, Indian Tariff Board and the Secretary, Planning Commission.

ORDERED also that it be published in the *Gazette of India*.

[No. PC-4(1)/50.]

B. B. SAKSENA, *Dy. Secy.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

(HOME DEPARTMENT).

No. H.A. 7724—Pol. 422-50-4, dated Bangalore, the 22nd November 1950.

In exercise of the powers conferred by sub-section (1) of Section 3 of the Police Act, 1908, (Act V of 1908), His Highness the Maharaja of Mysore is pleased to extend the provisions of the Police Act, 1908, as amended from time to time, to the North Bank of the Bhadra River at Lakkavalli Reservoir Project site including the Staff Colony at Singanamane Cooly Colony.

By Order of His Highness the Maharaja,

HOME DEPARTMENT.

No. H.A. 7739—Pol. 261-50-2, dated Bangalore the 23rd November 1950.

In exercise of the powers conferred by Section 4 of the Preventive Detention Act, 1950 (Central Act IV of 1950), His Highness the Maharaja of Mysore is pleased to direct that, when a person detained in persuance of a detention order under the said Act is required by the Supreme Court to be brought to Delhi for prosecution, he shall be liable to be removed to and detained in Delhi in such place and under such conditions including conditions as to maintenance, discipline and punishment for breaches of discipline as specified in the Delhi Detenus (Revised) Rules, 1950, and a copy of the said Rules shall be furnished to the said person before his removal to Delhi.

By Order of His Highness the Maharaja of Mysore,

K. SRINIVASAN,
Chief Secretary to Government.

No. L. S. 3124—L.W. 71-50-15, dated Bangalore, 23rd November 1950.

In pursuance of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Highness the Maharaja of Mysore is pleased to publish the following Award of the Industrial Tribunal, Bangalore, in the industrial dispute betweenSri Krishnarajendra Mills, Ltd., Mysore, and their employees.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Secretary to Government,
Law Department.

BEFORE THE INDUSTRIAL TRIBUNAL, BANGALORE.

TUESDAY THE 11TH DAY OF JULY 1950.

Present.

Rajadharmaprasakta Mr. A. R. Nagesvara Iyer, B.A., B.L., (*Chairman*)

Rajadharmaprasakta Mr. T. Singaravelu Mudaliar, B.A., B.L. (*Member*)

Industrial Case No. 2 of 1950-51.

Sri Krishnarajendra Mills' Labour Association, Mysore.

Vs.

Sri Krishnarajendra Mills' Limited, Mysore.

Labour Association represented by Sri K. Puttaswamy, its President.

Mills represented by Sri T. Rangaswamiengar, Advocate.

Award.

Both parties have filed a compromise petition embodying the terms agreed upon between them and pray that an Award may be made in accordance with the terms of the compromise petition. Under Section 15 of the

Industrial Disputes Act, as amended we make an Award in accordance with the terms contained in the compromise petition which is appended to the Award. The Award will be submitted to Government.

A. R. NAGESVARA IYER,
Chairman.

T. SINGARAVELU MUDALIAR,
Member.

BEFORE THE INDUSTRIAL TRIBUNAL, MYSORE.

INDUSTRIAL CASE NO. 2 of 1950-51.

Between

Sri Krishnarajendra Mills, Ltd., Mysore.
(*Management*)

and

Sri Krishnarajendra Mills' Labour Association, Mysore.
(*Association*)

Application for an award on the basis of a compromise arrived a between the two parties :—

The two parties to the dispute hereby declare that they have arrived at the following agreement in regard to the undermentioned industrial disputes pending before this Honourable Tribunal and that this agreement shall be in force for a period of six months :—

TERMS OF AGREEMENT.

Disputes.	*Terms of Agreement.*
1. *Notice of Change No. 12/50,* dated 19th January 1950 by the Labour Association to the Management :—	
(*a*) To increase by 15 to 20 per cent the present earnings of all pieceworkers of the various departments of the Mills and to grant a general increment of 2 annas per day to all daily rated workers by increasing the maximum in the scales of wages and without prejudice to the annual increments in accordance with the scales of wages. The increments to be given with effect from 1st January 1949.	It is agreed that the Managemen t should grant increases in wages to the employees as detailed hereinunder from 1st April 1950.— (i) All daily rated employees and all jobbers whether daily rated or on piece work Re. 0–1–0 per day. (ii) Weavers, Hosiery Overlock Stitchers, Weaving Warpers and Drawers—5 per cent on basic wages.

Disputes.	*Terms of Agreement.*
	(iii) Spinning Department—Doublers and Oilers and Hosiery Lockstitch Stitchers—6¼ per cent on basic wages. (iv) Roving Department—Piecers and Weaving Department Reachers—10 per cent on basic wages. (v) Reelers and NSS Winders—15 5/8 per cent on basic wages. (vi) Hosiery Winders and N.K Warp Winders—25 per cent on basic wages. A sum of Rs. 35 is provided just to adjust any inequalities in the wages drawn. This increase does not affect usual increments in accordance with existing scale of increments, if any. The Mills' Labour Association agrees to the Management removing from out of the present permanent strength not more than 40 employees such as may be declared medically unfit by the Medical Officer of the Mills. The Labour Association agrees that these 40 places need not be filled up. The Labour Association further agrees that the places of such employees as drop off of their own accord need not be filled up. The Labour Association desires to make it clear that they do not commit themselves to any maximum or minimum number of employees for the Mills.
(*c*) To make all the Substitute workers permanent.	This dispute is withdrawn by the Labour Association.
(*d*) To pay more attention to the welfare activities.	This dispute is withdrawn by the Labour Association.
2. *Notice of Change No. 436* of 2-2-50 by the Management to the Labour Association.—	
On 2-2-50, the Management gave a Notice of Change No. 436 to the Association stating their intention to discontinue the payment of attendance bonus with effect from 1st March 1950.	It is agreed that attendance bonus as per agreement dated 16th June 1949 be abolished and the old scheme of payment of dearness allowance and attendance bonus as per the agreement between the parties dated 20th August 1946 as per Annexure A shall come into force from 1st July 1950.

Disputes.	*Terms of Agreement.*
3. *Notice of Change No. 442* dated 3rd February 1950 by the Management to Labour Association :— On 3rd February 1950, the Management gave a Notice of Change No 442 to the Association stating their intention to resort to one shift working only or to work both the shifts for 3 days in a week with effect from 1st March 1950 due to low cotton stocks. The effect of this is to provide 50 per cent work and proportionate payment of wages and dearness allowance.	The dispute is withdrawn by the Management.
4. *Notice of Change No. 16/50* of 7th February 1950 by the Labour Association to the Management :—	
(*a*) The dearness allowance rate of Re. 0–2–3 per point rise in the cost of living index number to be raised to Re. 0–3–6 per point rise with effect from 1st March 1950.	The dispute is withdrawn by the Labour Association.
(*b*) To grant an increase of 15 per cent in piece-work rates of the new longcloth that worked on 42″ and 60″ looms.	The dispute is withdrawn by the Labour Association.

The Labour Association assures full co-operation with the Management to secure good production and increased efficiency.

Hence both the parties to the above disputes pray that the Honourable Tribunal be pleased to give an award in terms of the aforesaid agreement.

Dated this Tenth Day of July, One thousand nine hundred and fifty.

For Sri Krishnarajendra Mills' Labour Association

(Sd.) K. PUTTASWAMY,
President.

(Sd.) M. K. CHAMARAJURS,
Secretary.

Sri Krishnarajendra Mills' Labour Association, Mysore.

For Sri Krishnarajendra Mills, Ltd.

(Sd.) B. S. VISVESWARAIYA,
Secretary.

(Sd.) T. RANGASWAMIENGAR,
Counsel for
Sri Krishnarajendra Mills, Ltd.

(Sd.) A. R. NAGESVARA IYER,
Chairman.

(Sd.) T. SINGARAVELU MUDALIAR,
Member.

ANNEXURE A

Terms of Agreement.

* * *

Demand No. 2 :—It is agreed that with effect from 1st August 1946—

(*i*) those that attend the Mills for three days less than the scheduled number of working days in a month will be paid full dearness allowance for the month ;

(*ii*) those that attend the Mills for two days less than the scheduled number of working days in a month will be paid full dearness allowance for the month *plus* Re. 0-9-0 as attendance bonus for the month ;

(*iii*) those that attend the Mills for one day less than the scheduled number of working days in a month will be paid full dearness allowance *plus* Rs. 1-2-0 as attendance bonus for the month;

(*iv*) those that attend the Mills on all the scheduled working days in a month will be paid full dearness allowance *plus* Rs. 1-11-0 as attendance bonus for the month ;

(*v*) dearness allowance per day will be calculated on the basis of the number of working days in a month exclusive of statutory holidays;

(*vi*) privilege leave shall be treated as usual as attendance for this purpose ;

(*vii*) the closure of any department or departments for reasons beyond the control of the Company under Standing Order No. 18 or 19 will in no way affect the scheduled number of working days in a month.

* * *

Dated this Twentieth Day of August One thousand nine hundred and forty-six.

"COPY"

For Sri Krishnarajendra Mills' Labour Association,

(Sd.) K. PUTTASWAMY,
President.

For Sri Krishnarajendra Mills, Ltd:
(Sd.) B. S. VISVESWARAIYA,
Secretary.

(Sd.) A. R. NAGESVARA IYER,
Chairman.

(Sd.) T. SINGARAVELU MUDALIAR.
Member.

No. L. S. 3129—L.W. 211-50-2, dated Bangalore, the 23rd November 1950.

In exercise of the powers conferred by clause (6) of Section 2 of the Mysore Shops and Establishments Act, 1948 (Mysore Act II of 1948), His Highness the Maharaja of Mysore is pleased to declare every establishment engaged in transport business to be an 'establishment' for the purposes of the said Act.

By Order of His Highness the Maharaja,

No. L. S. 3147—L.W. 212-50-4, dated Bangalore, the 24th November 1950.

In exercise of the powers conferred by sub-section (1) of Section 10 of the Industrial Disputes Act (Act XIV of 1947), His Highness the Maharaja of Mysore is pleased to refer the dispute between the Labour Association and the Management of the Kolar Brickmaking Company in respect of the workers' demands as detailed below, for adjudication, to the Industrial Tribunal constituted in Notification No. L. S. 675-85/L. W. 71-50-6, dated 30th May 1950:—

1. Grant of six months' earnings as profit bonus to the workers during 1948.
2. Reinstatement of Sri Burland, an employee.
3. Play-off of workers.
4. Grant of increased Dearness Allowance.
5. The claims for half wages and D. A. to the employees played off.
6. Grant of full D. A. under Standing Order 14 or half wages and half D. A. to the employees played off, and grant of bonus for 1949.

By Order of His Highness the Maharaja,

No. L.S. 3156—L.W. 180-49-6, dated Bangalore, the 25th November 1950.

In exercise of the powers conferred by sub-section (2) of Section 33 of the Mysore Factories Act, 1936, (I of 1936), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made to the Mysore Factories (Amendment) Rules, 1936 the draft of the same having been published in Part IV—Section 2-B of the *Mysore Gazette*, dated 23rd February 1950, in Notification No. L.S. 3137—L.W. 180-49-2,

dated 16th February 1950, as required by Section 18 of the said Act.

After Rule 95 of the Mysore Factories (Amendment) Rules, 1936 the following Rule shall be inserted, namely,

Maintenance of Creches.

[*Under Section* 33 (2)].

"95-A: In every factory in which more than fifty women workers are ordinarily employed, a suitable room shall be reserved for the use of children under the age of six years belonging to such women and maintained as a Creche. The standards for such Creches and the nature of supervision to be exercised over the children therein shall be as follows :—

(1) The Creche shall be provided with sanitary utensils and sufficient supply of hot and cold water.

(2) A trained nurse or a midwife with the menial staff (two ayahs and two sweepers) should be employed for attending to the children occupying the Creche. A washerman (dhoby) shall also be employed for washing the linen used in the Creche.

(3) The children in the Creche shall be provided with suitable cradles with necessary bedding and clothing.

(4) The supervision of the Creche shall be entrusted to the Doctor attached to the factory or to a visiting Doctor. The Doctor, in addition to the supervision work, shall attend to the minor ailments of the children. Weekly or fortnightly visits of a woman Doctor shall be arranged for holding an Ante-Natal Clinic."

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Secretary to Government,
Law Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

NOTIFICATIONS.

No. 11921-24-C.B. 294-50-2, dated Bangalore, the 28th November 1950.

In exercise of the powers conferred by sub-rules (2) and (3) of Rule 81 of the Defence of India Rules, as in force in Mysore, and as continued by the Supplies, Services and Miscellaneous Provisions (Temporary Powers) Act, 1947, (Mysore Act No. XX of 1947), His Highness the Maharaja of Mysore is pleased to direct that in the Order No. D. 4883—I. & C. 165-49-1, dated the 21st December 1949, for the words "the Chief Electrical Engineer in Mysore", the words "the Additional Director of Industries and Commerce in Mysore" shall be substituted, and to direct with reference to sub-rule (1) of Rule 119 of the said Defence of India Rules that a copy of this Order shall be served on the Secretary of the Mysore Lamp Works, Ltd., Bangalore.

By Order of His Highness the Maharaja,

R. J. REGO,
Secretary to Government,
Development Department.

No. L.D. 2475—L.A. 78-50-2, Bangalore, dated 28th November 1950.

In exercise of the powers conferred by Clause (a) of Rule 2 of the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, His Highness the Maharaja of Mysore is pleased to direct that in the Table annexed to Notification No. L.D. 2423—L.A. 78-50-1, dated the 24th November 1950, for Serial No. 8, the following shall be substituted, namely:—

"8.	First Magistrate, Kolar.	The areas under the jurisdiction of the Kolar Gold Fields Sanitary Board".

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

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PART IV

Section 1-B

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

(HOME DEPARTMENT.)

No. H.B. 8224—Ptl. 22-50-2, Bangalore, dated 30th November 1950.

Ordered that the accompanying Notification No. 9-5-48—F. II, dated 30th October 1950, issued by the Government of India, Ministry of Home Affairs be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

K. SRINIVASAN,

Chief Secretary to Government.

Copy of Notification No. 9-5-48—F. II, dated 30th October 1950 received from the Government of India, Ministry of Home Affairs.

In exercise of the powers conferred by clause (1) of Article 258 of the Constitution, the President is pleased to entrust to the Governments of Madhya Bharat, Mysore, Patiala and East Punjab States Union, Sourashtra and Travancore-Cochin, with their consent, the powers of making orders of the nature specified in

clauses (d), (e) and (f) of sub-section (2) of section 3 of the Foreigners Act, 1946 (XXXI of 1946), in respect of foreigners other than enemy foreigners (as defined in the Enemy Foreigners Order, 1939), subject to the following conditions, namely :—

(1) that notwithstanding this entrustment the Central Government may itself exercise the said function either generally or in any particular case or class of cases ; and

(2) that the State Governments shall not exercise the said function in a manner inconsistent with any order which has been, or may hereafter be, issued by the Central Government under the said Act.

NOTIFICATION.

(HOME DEPARTMENT).

No. H.B. 8235—Ptl. 22-50-3, Bangalore, dated 30th November 1950.

Ordered that the accompanying Notification No. 9-5-48—F. II, dated 30th October 1950, issued by the Government of India, Ministry of Home Affairs be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

Copy of the Notification No. 9/5/48—F. II, dated 30th October 1950, issued by the Government of India, Ministry of Home Affairs, New Delhi.

In exercise of the powers conferred by clause (1) of Article 258 of the Constitution, the President is pleased to entrust to the Governments of Madhya Bharat, Mysore Patiala and East Punjab States Union, Saurashtra and Travancore-Cochin, with their consent, the functions of the Central Government under the Foreigners Order, 1948, subject to the condition that notwithstanding this entrustment the Central Government may itself exercise any of the said functions in any particular case or class of cases.

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at the Government Press, Bangalore.

PART IV 412

Section I-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L D. 2171—Legis. 6-50-53, Bangalore, dated ..... 1950.

Ordered that the accompanying Notification No. S.R.O. 780, dated the 21st October 1950 of the Ministry of Agriculture, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF AGRICULTURE

NOTIFICATION

New Delhi, the 21st October 1950

S.R.O. 780.—In exercise of the powers conferred by sub-clause (1) of clause 4 of the Vegetable Oil Products Control Order, 1947, as continued in force by sub-section (2) of section 17 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), and in supersession of the notification of the Government of India in the Department of Food No. 5-VP (1)/47, dated the 31st January, 1947, the Vegetable Oil Products Controller for India hereby prohibits the manufacture, stock or sale of any vegetable oil product, which does not conform to the following provisions, namely :—

1. It shall be prepared by hydrogenation from any edible harmless vegetable oils or mixtures thereof except marine, mineral and animal oils. The prior approval of the Vegetable Oil Products Controller for India shall be obtained for admixture of more than 5 per cent of any permissible oil in the product and the name of oil so used shall be clearly indicated on the containers.

2. It shall not contain any harmful colouring, flavouring or any other matter deleterious to health.

3. No colouring shall be added to it unless with the prior sanction of the Vegetable Oil Products Controller and in no event any colour resembling the colour of ghee.

4. If any flavour is used, it shall be distinct from that of ghee in accordance with a list of permissible flavours and in such quantities as may be prescribed by the Vegetable Oil Products Controller for India.

5. It shall not have moisture exceeding 0·25 per cent.

6. The melting point as estimated by the capillary slip method (as described in Note I below) shall be from 33°C to 37°C both inclusive.

7. The Butyro Refractometer reading at 40°C shall not be less than 48·0.

8. It shall not have unsaponifiable matter exceeding 1·25 per cent.

9. It shall not have free fatty acids (calculated as oleic acid) exceeding 0·25 per cent.

10. The product on melting shall be clean and clear in appearance and shall be free from sediment and rancidity and pleasant to taste and smell.

11. It shall contain raw or refined sesame (til) oil not less than 5 per cent, by weight but sufficient so that when the vegetable oil product is mixed with refined groundnut oil in the proportion of 20:80, the red colour produced by the Baudouin test (as described in Note II below) shall not be lighter than 2·0 Red units in a 1 c.c. cell on a Lovibond scale.

12. It shall be manufactured in premises maintained under hygienic conditions.

NOTE I.—The "Capillary Slip Method" is as follows :—

(i) Thin walled glass tube open at both ends with an external diameter of 1·2 to 1·5 m.m. and internal diameter of 0·83 to 1·1 m.m. and length 5 to 6 cm. should be used after proper cleaning and drying.

(ii) The sample of the vegetable oil product should be completely melted and well mixed at a temperature of about 50°C. The capillary tube should be inserted into the molten product so that a column of the product about one cm. long is forced into it. The sample in the tube should be allowed to just set by keeping the tube in a horizontal position during winter, and during summer the tube may be put on a perforated metal tray which is so placed inside a small water bath containing water at 15°C—17°C that the bottom of the tray just touches the water.

(iii) The tube is then placed in a test-tube immersed in water at 15°C—17°C for one hour.

(iv) A thermometer (reading in 1/5th of a degree) should be suspended in the centre of a beaker of water at 10°C, (the beaker is to be provided with a side tube heating arrangements) so that the lower end of the sample column is 3 cms. below the surface of water. The side tube of the apparatus should be heated gently, so that the temperature of water increases slowly at the rate of 2°C per minute till the temperature reaches 25°C and thereafter at the rate of 1/2 a degree per minute.

(v) The temperature of water should be noted when the sample column commences to rise in the tube. This temperature is recorded as the melting point.

The thermometer used in this test should be checked against a standard thermometer calibrated and certified by the National Physics Laboratory, Teddington, England.

NOTE II.—The Baudouin test shall be carried out as follows :—

Place in a test tube 5 cc. of the sample (20 parts of vegetable oil products and 80 parts of refined groundnut oil) and 5 cc. of hydrochloric Acid (Specific Gravity 1·19) and add to it 8 drops of 2 per cent solution in alcohol of freshly distilled furfurol, shake vigorously for 2 minutes and allow to stand. The acid layer becomes distinctly red. Quickly filter the acid layer through a wet filter paper and examine the filtrate against a Lovibond scale in a 1 cm. cell or against a red colour comparator.

If the vegetable oil product on being shaken with hydrochloric acid alone, conveys a redness to the hydrochloric acid owing to the presence of certain artificial colouring agents, the procedure is as follows :—

Shake 10 cc. of the melted vegetable oil product in a separating funnel for half a minute with 10 cc. of hydrochloric acid, specific gravity 1·125. Draw off the red acid layer which collects at the bottom of the funnel and repeat the process until no further colouration takes place. During the treatment do not permit the temperature of the contents of the separating funnel to exceed that necessary to keep the sample in liquid condition. After the hydrochloric acid has been completely removed apply the Baudouin test as described above.

[No. 5-VP (1)/50]

N. T. MONE,

Vegetable Oil Products Controller for India.

No. 5-VP (1)-50.

Copy forwarded to all concerned.

By order, etc.,

T. PRASAD,

Officer on Special Duty.

NOTIFICATION.

No. L.D. 2498—Legis. 6-50-54, Bangalore, dated 30th November 1950.

Ordered that the accompanying Notification No. S.R.O. 805. dated the 21st October 1950 of the Ministry of Industry and Supply amending the Cotton Textiles (Control) Order 1948 published in the *Gazette of India*, Part II, Section 3, dated the 28th October 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF INDUSTRY AND SUPPLY

New Delhi, the 21st October 1950.

S.R.O. 805.—In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government

is pleased to direct that the following further amendments shall be made in the Cotton Textiles (Control) Order, 1948, namely :—

In the said Order—

(*a*) for sub-clause (ii) of clause 1 the following sub-clause shall be substituted namely :—

"(ii) it extends to the whole of India except the State of Jammu and Kashmir."

(*b*) for clause 2 the following clause shall be substituted, namely :—

"2. The Cotton Textiles (Control) Order, 1948 (Notification No. 80-Tex. I/48, dated the 19th February 1948) and any order corresponding to that order in force in a Part B State are hereby repealed :

Provided that any order made, notification issued, right accrued, penalty incurred or anything done or deemed to have been done under the order so repealed shall be deemed to have been made, issued, accrued, incurred or done under the corresponding provisions of this Order.

2A. All Orders, notifications and directions issued or deemed to have been issued under this Order which, immediately before 21st October 1950 were in force only in certain parts of India, are hereby extended to and shall be in force in the whole of India except the State of Jammu and Kashmir."

[No. 9(4)-Tex. I/49.]

K. RAM, *Dy. Secy.*

NOTIFICATION.

No. L.D. 2500—Legis. 4-50-66, Bangalore, dated 30th November 1950

Ordered that the accompanying Notification No. S.R.O. 801, dated the 17th October 1950 of the Ministry of Home Affairs amending the Indian Passport Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 28th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

New Delhi, the 17th October 1950.

S.R.O. 801.—In exercise of the powers conferred by section 3 of the Indian Passport Act, 1920 (XXXIV of 1920), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Passport Rules, 1950, namely :—

In clauses (f) and (g) of sub-rule (1) of rule 4 of the said Rules, after the words "entering India by land" the words "or by air" shall be inserted.

[No. 6/34/50-F.I.]

FATEH SINGH, *Dy. Secy.*

NOTIFICATION. 416

No. L.D. 2501—Legis. 4-50-65, Bangalore, dated 30th November 1950.

Ordered that the accompanying Notification No. S.R.O. 800, dated the 16th October 1950 of the Ministry of Home Affairs amending the Registration of Foreigners Rules, 1939, published in the *Gazette of India*, Part II, Section 3, dated the 28th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF HOME AFFAIRS

New Delhi, the 16th October 1950.

S.R.O. 800.—In exercise of the powers conferred by section 3 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Registration of Foreigners Rules, 1939, the same having been previously published as required by the said section, namely :—

I. In rule 4 of the said Rules, the words "and, if he is a foreigner," shall be omitted.

II. In form 'E' annexed to the said Rules, the brackets, words and figures "(columns 1 and 2 to be completed in respect of all passengers; columns 3 to 6 foreigners only)" shall be omitted.

[No. 147/49-F.I.]

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. D. 5764—I. & C. 271-49-3, dated Bangalore, 28th November 1950.

In exercise of the powers conferred by Rule 6 of the Mysore Sugar Factory Sugarcane Cess Rules, 1949, and in supercession of Notification No. D. 10113—I. & C. 271-49-1, dated 27th March 1950, the Government of Mysore are pleased to specify Rupees three per ton as the rate of Cess leviable for the year 1949-50.

By Order of His Highness the Maharaja,

No. D. 5793—I. & C. 206-50-6, dated Bangalore, 28th November 1950.

In exercise of the powers vested in them under Rule 5 of the Rules framed under Sections 4, 6 and 11 of the Sugar Industries Safeguarding Act, 1934, Government are pleased to notify that the minimum price per ton at which sugarcane is purchased at the factory at Mandya of the Mysore Sugar Company, Ltd., shall be Rs. 40 (Rs. 32 *plus* a bonus of Rs. 8) delivered at the factory during the crushing season extending from the month of August 1949 to 1st June 1950.

By Order of His Highness the Maharaja,

R. J. REGO,
Secretary to Government,
Development Department.

No. C. 1081—Co. 23-49-71, dated Bangalore, the 2nd December 1950.

In exercise of the powers conferred by Section 3 and clause (*a*) of sub-section (1) of Section 4 of the Mysore Drugs (Control) Act, 1950 (Mysore Act No. VI of (1950), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the notification No. C. 3130—Co., dated the 3rd October 1949 namely:—

In the schedule annexed to the said notification.—

(1) To the entries uuder the heading "Eli-Lilly & Company of India, Inc", the following entries shall be added, namely:—

	per ampoule Rs. a. p.
'Duracillin Fortified' (Procaine Penicillin-G and Penicillin-G, Crystalline-Sodium Lilly) Buffered, for aqueous injection, 400,000 units in 1-dose, rubber-stoppered ampoules	6 4 0
'Duracillin Fortified' (Procaine Pencillin-G and Pencillin-G, Crystalline-Sodium, Lilly) Buffered, for aqueous injection, 2,000,000 units in 5-doses rubber-stoppered ampoules	21 10 0
'Betalin S'. (Thiamin Chloride, (Lilly), 100 mg. Thiamin Chloride per cc.—10 cc. rubber-stoppered ampoules ...	8 13 0

(2) To the entries under the heading "May and Baker (India), Ltd.," the following entries shall be added, nameiy:—

	Rs. a. p.
Penicillin Crystalline G—	
5×0·10 mega unit ...	5 9 0
5×0·20 mega unit ...	7 12 0
5×0·50 mega unit ...	14 5 0
5×1·00 mega unit ...	25 2 0

(3) To the entries under the heading "Abbot Laboratories (India), Ltd., Bombay", the following entries shall be added, namely:—

	Rs. a. p.
Penicillin G Crystalline 100,000 units for Inhalation Therapy—Vial of 3 cartridges ...	11 0 0
Abbotaniq—8 oz. ...	7 4 0
Ascorbic Acid, 25 Mg. Tablets (Vitamin C)—	
40 ,, ...	2 0 0
100 ,, ...	3 14 0
1000 ,, ...	23 10 0
Ascorbic Acid, 50 Mg. Tablets—	
25 ,, ...	2 0 0
100 ,, ...	7 0 0
1000 ,, ...	44 0 0

	Rs.	a.	p.
Bejectal (Vitamin B Complex, Inj.) 10 cc. ...	12	0	0
Bejectal with Liver 10 cc. ...	14	0	0
Bevitin Elixir (Vitamin B Complex) 6 oz. ...	8	0	0
Bevitin Syrup (Vitamin B Complex)—			
3 oz.	5	8	0
6 oz.	9	4	0
12 oz.	15	12	0
Dayamin Capsules (Multiple vitamins)—			
30	11	0	0
100	32	0	0
Dicaldimin Capsules—			
30	5	0	0
100	12	8	0
Haliver Malt with Viosterol 8 oz. ...	8	0	0
Surbex Tablets (Vitamin B Complex)—			
25	7	8	0
100	26	8	0
1000	243	8	0
Thiamine HCl. 100 mg./cc. 30 cc. ...	28	0	0
Rutin 20 mg. Tablets—			
25	6	4	0
100	22	8	0
Thiamine HCl. 5 mg. Tablets 25 ...	1	12	0
Trigol Liquid (Vitamin E)—			
10 cc.	2	0	0
50 cc.	5	4	0
Trigol 3 Min. Capsules—			
25	4	0	0
100	12	0	0
Vidaylin (Multiple vitamins, Liquid)—			
3 oz.	6	12	0
8 oz.	13	0	0
16 oz.	25	12	0
Vita-kaps Improved Capsules—			
25	6	8	0
100	19	12	0
Abbocillin R/R (Penicillin Rapid/Repository Aqueous with water for injection U. S. P., Penicillin G. Procaine 300,000 units and Buffered Penicillin G. Potassium 100,000 units) 1 cc.	7	0	0
Abbocillin A-S (Penicillin G. Procaine in Aqueous Suspension 300,000 units) 1 cc. ...	5	0	0

(4) To the entries under the heading 'Jagkumar & Co., Bombay, "Mercks" Products', the following entry shall be added, namely :—

	Rs.	a.	p.
"Mercks" Saline Solution of Cobine Crystalline Vitamin B_{12} each cc. = 10 mg. per ampoule.	5	4	0

(5) To the entries under the heading "The Fairdeal Corporation, Ltd., Bombay", the following entry shall be added, namely :—

	Rs.	a.	p.
BI-PEN—1 dose vial (300,000 units of Crystalline Procaine Penicillin and 100,000 units of Potassium Penicillin Crystalline G.) per vial.	5	8	0

(6) To the entries under the heading "Messrs. Merck & Co., Inc., U. S. A." the following entries shall be added, namely :—

Procaine Penicillin G. in Peanut Oil.

	Rs.	a.	p.
10 cc. vial, each cc. containing 3,00,000 units—per vial	15	0	0

Produral Penicillin.

1 dose vial, each vial containing 300,000 units of Procaine Penicillin G. Crystalline and 1,00,000 units Buffered Penicillin G. Potassium—per vial	5	0	0
5 dose vial, each containing 15,00,000 units Procaine Penicillin G. Crystaltine and 5,00,000 units Buffered Penicillin G. Potassium.	20	0	0
Dihydrosteptomycin present as the Sulphate—5 gram vial	20	0	0
Thiamine Hydrochloride U.S.P. Vitamin B1—per gram	1	9	6

(7) To the entries under the heading "Messrs. Merck & Co., Ltd., Canada", the following entries shall be added, namely :—

Procaine Penicillin G in Peanut Oil.

	Rs.	a.	p.
10 cc. vial, each cc. containing 3,00,000 units per vial	15	0	0

Produral Penicillin.

1 dose vial, each vial containing 3,00,000 units of procaine Penicillin G Crystalline and 1,00,000 units Buffered Penicillin G Potassium per vial	5	0	0

	Rs.	a.	p.
5 dose vial, each vial containing 15,00,000 units procaine Penicillin G Crystalline and 5,00,000 units Buffered Penicillin G Potassium ...	20	0	0
Thiamine Hydrochloride U. S. P. Vitamin B1. per gram	1	9	6

(8) To the entries under the heading "Messrs. Chas. Pfizer & Co., Inc., New York", the following entries shall be added, namely :—

	Rs.	a.	p.
Procaine Penicillin G Crystalline for Aqueous Injection, 3,00,000 units per cc.—			
Vials of 1 cc.	3	11	0
Vials of 5 cc.	13	8	0
Vials of 10 cc.	24	0	0
Pronapen (Procaine Penicillin G Crystalline for Aqueous Injection with Buffered Sodium Penicillin G Crystalline) 4,00,000 unit per cc.—			
Vials of 5 cc.	16	0	0
Vials of 10 cc.	28	0	0

(9) To the entries under the heading "Imperial Chemical Industries (India) Ltd."; the following entries shall be added, namely :—

	Rs.	a.	p.
Sulphaguanidine 0·5 Gm. tablets containers of 125 strips of 8 tablets each *i.e.*, 1,000 tablets ...	37	1	0
Sulphanilamide 0·5 Gm. tablets containers of 125 strips of 8 tablets each *i.e.*, 1,000 tablets ...	19	7	0
Sulphamezathine 0·5 Gm. tablets containers of 125 strips of 8 tablets each *i.e.*, 1,000 tablets ...	75	7	0

(10) To the entries under the heading "Evans Medical Supplies (India) Ltd.", the following entries shall be added, namely :—

	Rs.	a.	p.
Distaquaine "G" Crystalline Penicillin "G" Procaine Salt for intramuscular injection inaqueous suspension 3 lac unit per vial ...	2	10	0
Distaquaine "Fortified" Crystalline Penicillin "G" Procaine Salt and Potassium Salt (Buffered) for intramuscular injection in-aqueous suspension 4 lac units per vali ...	3	3	0
Penicillin Lozenges Sealtite 20's per box ...	1	4	0

(11) The following heading and entry shall be added, namely :—

MESSRS. BIDDLE SAWYER & CO., (INDIA) LTD., BOMBAY.

	Rs.	a.	p.
"*Societe Das Antibiotiques De France, 67, Boulevard, Haussmann, Paris*" ...			
Dihydrostreptomycin Sulphate 1 Gm. Vial ...	5	0	0

By Order of His Highness the Maharaja,

No. C. 1096—Co. 23-49-73, dated Bangalore, the 4th December 1950.

In exercise of the powers conferred by Section 3 and clause (a) of sub-section (1) of Section 4 of the Mysore Drugs (Control) Act, 1950 (Mysore Act No. VI of 1950), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the Schedule to Notification No. C. 3130—Co., dated the 3rd October 1949, namely,—

1. In respect of the drugs in the said schedule specified in column 1 hereunder which are manufactured by Parke Davis & Co., Bombay, Abbot Laboratories (India), Ltd., Bombay, Boots Pure Drug Co. (India), Ltd., Bombay, the Fair Deal Corporation, Ltd., Bombay, Messrs. Merck & Co., Inc., U.S.A., Messrs. Merck & Co., Ltd., Canada, Messrs. Chas Pfizer & Co., Inc., New York, Imperial Chemical Industries (India), Ltd., The Upjohn Co., U.S.A., Ciba Pharma Limited, Bombay, Eli Lilly and Company of India, Inc., Evans Medical Supplies (India), Ltd., and Jagkumar & Co., Bombay, for the prices specified in column 2 of the said schedule the prices specified in column 2 hereunder shall be substituted:—

	Retail price U. S. A.
	Rs. a. p.
PARKE DAVIS & Co., BOMBAY.	
Pitressin 0·5 cc—6's ...	15 10 0
ABBOT LABORATORIES (INDIA), LTD., BOMBAY.	
Thiamine Hydrochloride, 1·0 mg. tablets—	
Bottle of 25 ...	0 14 0
Bottle of 100 ...	2 0 0
BOOTS PURE DRUG Co. (INDIA), LTD., BOMBAY.	
Penicillin Procaine—Injections of R/C vials containing 10 cc. (1 cc=300,000 I. U.) ...	25 0 0
Penicillin Oil/Wax suspension:	
R/C vials of 10 cc. (1 cc=125,000 I.U.) per vial ...	12 0 0
R/C vials of 10cc. (1 cc=300,000 I.U.) per vial ...	24 0 0
THE FAIR DEAL CORPORATION, LTD., BOMBAY.	
Penicillin—Box of 5×1 cc. Refill Cartridges Procaine—per box ...	32 8 0
Penicillin—Disposable Syringe set with 1 cc. Cartridges procaine—per set ...	6 4 0

MESSRS. MERCK & CO., INC., U.S.A.

	Rs.	a.	p.
Dihydrostreptomycin—1 gm. vial per gram ...	4	12	0
MESSRS. MERCK & CO., LTD., CANADA.			
Dihydrostreptomycin—5 gm. vials—per vial ...	20	0	0

MESSRS. CHAS PFIZER & CO., INC., NEW YORK.

"Pronapen" Crystalline procaine Penicillin G for aqueous injection with buffered Sodium Penicillin G "Pfizer".			
Vials of 400,000 units ...	4	11	0
Procaine Penicillin G Crystalline in Oil with 2 per cent aluminium monostearate "Pfizer".			
Vial of 1 cc = 300,000 units ...	3	0	0
Vial of 10 cc = 300,000 units ...	18	12	0
Penicillin Tablets Potassium Salt Buffered "Pfizer"			
50,000 units each—box of 12 tablets ...	7	0	0
100,000 units each—box of 12 tablets ...	13	8	0
Penicillin Troches } 10,000 units ...	4	12	0
Potassium salt Pfizer }			
Dihydrostreptomycin—1gm. vial—per gram ...	4	12	0

IMPERIAL CHEMICAL INDUSTRIES (INDIA), LTD.

SULPHAMEZATHINE brand of Sulphadimidine Tablets of 0·5 gm.			
Containers of 25 ...	2	4	0
Containers of 100 ...	8	2	0
Containers of 500 ...	36	4	0
Sulphanilamide Tablets 0·5 gm.			
Containers of 500 ...	7	9	0

THE UPJOHN COMPANY U.S.A

Penicillin G Crystalline 100,000 units ...	1	8	0
Penicillin G Crystalline 200,000 units ...	1	12	0
Penicillin G Crystalline 500,000 units ...	3	6	0
Penicillin G Crystalline 10 lakh units ...	6	4	0
Penicillin Ointment (Topical) 1 ounce ...	5	0	0
Penicillin Ointment (Ophthalmic) 1 drachm ...	2	8	0
Penicillin Tablets 50,000 units 12's ...	7	4	0
Penicillin Tablets 100,000 units 12's ...	14	0	0
Super A Vitamin Conc. Capsules 50's ...	15	0	0
Super A Vitamin Conc. Liquid 15 cc. ...	10	0	0

CIBA PHARMA LIMITED, BOMBAY

Cibazol Eye Ointment 5 gm. ...	1	8	0
Cibazol Ointment 40 gms. ...	3	0	0
Formo—Cibazol 20 tabs. ...	4	13	0
Formo—Cibazol 200 tabs. ...	42	0	0

ELI LILLY AND COMPANY OF INDIA, INC.,

Dihydrostreptomycin Sulfate, 20 cc. rubber stoppered ampoules—per ampoule ... 5 4 0

EVANS MEDICAL SUPPLIES (INDIA), LTD.

Penicillin Ointment—Jars of 25 gm— per jar ... Rs. 1-10—3.
Penicillin Eye Ointment—Tubes of 4 gm per tube... Rs. 1—6—6.

JAGKUMAR & Co., BOMBAY.

"Mercks" Products.—

"Mercks" Saline Solution of Cobione Vitamin B. 12 Rs. 7-15—0 per ampoule.

2. For the entry "Mercks" Saline Solution of Cobione Vitamin B 12 "under the heading 'Jagkumar & Co., Bombay "Mercks Products" appearing in the said schedule, the entry "Mercks Saline Solution of Cobione, Vitamin B 12 each cc=15 MG' shall be substituted.

By Order of His Highness the Maharaja,

A. S. KHALEEL,
Secretary to Government,
Food and Agriculture Departments.

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PART IV

Section—1-B.

ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 2639—Legis. 2-50-47, Bangalore, dated 9th December 1950.

Ordered that the following The Allianz UND Stuttgarter Life Insurance Bank (Transfer) Act, 1950 (Act No. LXII of 1950), published in the *Gazette of India*, Part II, Section I, dated the 2nd December 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

Received Assent on 1st December 1950.

THE ALLIANZ UND STUTTGARTER LIFE INSURANCE BANK, (TRANSFER) ACT, 1950.

(LXII OF 1950).

AN

ACT

to provide for the transfer of the business of the Allianz Und Stuttgarter Life Insurance Bank, Limited, to the United India Life Assurance Company, Limited, and for matters connected therewith.

BE it enacted by Parliament as follows:—

1. Short title and commencement.—(*1*) This Act may be called the Allianz Und Stuttgarter Life Insurance Bank (Transfer) Act, 1950.

(*2*) It shall be deemed to have come into force on the 1st day of September, 1950.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "the Act" means the Insurance Act, 1938 (IV of 1938);

(*b*) "transferee company" means the United India Life Assurance Company, Limited, having its registered office in Madras;

(*c*) "transferor company" means the Allianz Und Stuttgarter Life Insurance Bank, Limited.

3. Transfer of assets and liabilities of the transferor company to the transferee company.—All the assets and liabilities of the transferor company which relate to or arise out of the life insurance business of the transferor company carried on immediately before the commencement of this Act by Messrs. A. F. Ferguson & Company, Chartered Accountants of Bombay, under the Defence of India Rules shall, by virtue of this Act, stand transferred to and vest in the transferee company, subject to the provisions of this Act and to the terms and conditions specified in the First Schedule.

4. Effect of transfer of assets and liabilities to transferee company.—(*1*) Every contract of life insurance, entered into between the transferor company and the holder of any life policy before the commencement of this Act, shall have effect as from such commencement as if the transferee company had been a party to the contract instead of the transferor company, and for any reference (however worded and whether express or implied) to the transferor company there were substituted as respects anything falling to be done on or after such commencement, a reference to the transferee company, and with such other modifications as may be necessary to transfer rights, liabilities and obligations under the contract so far as unperformed, from the transferor company to the transferee company:

Provided that no provision in any such contract for the payment of any bonus, profit, interest or dividend on any life policy shall have effect against the transferee company except on the basis of an actuarial valuation of the business of the transferor company made after the commencement of this Act and to the extent, if any, that may be recommended by the actuary.

(*2*) For the removal of doubts it is hereby declared that notwithstanding any decision or rule of law to the contrary, no contract of life insurance as is referred to in sub-section (*1*) shall be deemed to have been dissolved merely by reason of the declaration that war had broken out between the Government of the United Kingdom and Germany.

5. Cessation of payment of commission to past insurance agents.—(*1*) Notwithstanding anything to the contrary contained in the Act or in any other law for the time being in force or in any contract, all contracts of agency entered into before the 31st day of July, 1942, between an insurance agent, a special agent or a chief agent (by whatever name called) and the transferor company, and any appointment made before the said date whereby remuneration is payable to any person in the form of commission or bonus, shall be deemed to have been terminated with effect from the said date and no commission or bonus due to such agent or person, whether on renewal premiums or otherwise, shall be payable to him in respect of any life policies procured by or through him before the said date.

(*2*) Notwithstanding anything to the contrary contained in any law for the time being in force, no compensation shall be payable to any person for the termination, in pursuance of this section, of any contract of agency or other appointment.

6. Provision for facilitating transfer.—The Central Government may, by order notified in the Official Gazette, make such incidental, supplementary or consequential provisions as, in its opinion, are necessary to secure that the transfer of the assets and liabilities of the transferor company to the transferee company are fully and effectively carried out, and in particular and, without prejudice to the generality of such power, provision may be made by order notified in the Official Gazette—

(*a*) for adapting the terms of contracts entered into between the transferor company and any other person before the commencement of this Act, so as to conform to the changes consequent on the passing of this Act in the circumstances in which the contracts will fall to be performed after such commencement;

(*b*) for requiring any person concerned with the keeping of the register of the holders of any securities or investments now transferred to the transferee company, to forthwith register the transferee company therein and to issue to the transferee company the appropriate documents of title relating to the securities or investments transferred to it;

(*c*) for the continuation by or against the transferee company of any legal proceedings pending by or against the transferor company.

7. Power to give directions.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Controller of Insurance may, with the approval of the Central Government give such directions to the transferee company as he may consider necessary and the transferee company shall be bound to comply with such directions.

(*2*) If the transferee company fails to comply with any direction given to it under sub-section (*1*) it shall be deemed to have committed an offence punishable under section 102 of the Act.

8. Repeals.—(*1*) The Allianz Und Stuttgarter Life Insurance Bank (Transfer) Ordinance, 1950 (XXIV) of 1950 is hereby repealed.

(*2*) The notifications specified in the Second Schedule shall cease to have effect on the commencement of this Act, except as respects things done or omitted to be done before such commencement.

THE FIRST SCHEDULE

(*See* section 3)

Terms and conditions relating to the transfer of the business of the transferor company.

1. The transferee company shall maintain a separate account in which shall be shown the business of the transferor company which has been transferred to it and

a separate valuation thereof shall be made from time to time with a view to ascertaining whether profits appertaining to such business and divisible among holders of life policies exist.

2. The transferee company shall be bound to pay in full all claims arising out of any life policy issued by the transferor company and remaining to be paid at the commencement of this Act or falling to be paid at any time after such commencement.

3. Notwithstanding anything contained in notification No. 168-I(23)-W/41 of the Government of India in the Commerce Department, dated the 27th day of June, 1942, the transferee company shall be liable to make good in respect of every policy of life insurance which had fallen due for payment before the commencement of this Act the difference between the amounts actually paid to the holder thereof by or on behalf of the transferor company in pursuance of the said notification and the full amount which would have been payable if that notification had not been issued.

4. If the transferee company recovers or receives any money from outside India which relate to the assets now transferred to the transferee company the same shall be applied by the transferee company for the benefit of the life policies of the transferor company issued in India.

THE SECOND SCHEDULE

(*See* section 8).

Repeals

Notification No. and Date	Contents of Notification
1. No. 288-OR/39, dated the 14th December, 1939 of the Government of India, Defence Co-ordination Department.	Authorising Messrs. A. F. Ferguson and Company, Chartered Accountants of Bombay, to carry on the business of the transferor company under rule 113A of the Defence of India Rules, since continued in force by the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947 (XVI of 1947).
2. No. 168-I(2)-W/39, dated the 22nd February, 1941, of the Government of India, Department of Commerce.	Granting exemptions to Messrs. A. F. Ferguson and Company from the operation of certain provisions of the Act.
3. No. 168-I(23)-W/41, dated the 27th June, 1942, of the Government of India, Department of Commerce.	Exempting Messrs. A. F. Ferguson and Company from the obligation imposed by any contract of insurance in respect of so much thereof as is in excess of 80 per cent of the liability arising therefrom.

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PART IV 429

Section I-C

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 2673—Legis. 6-50-60, Bangalore, dated 8th December 1950

Ordered that the accompanying Notification No. S.R.O. 933, dated the 18th November 1950 of the Ministry of Industry and Supply, delegating powers under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 18th November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF INDUSTRY AND SUPPLY.

NOTIFICATION.

New Delhi, the 18th November 1950.

S. R. O. 933.—In exercise of the powers conferred by section 22 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), the Central Government is pleased to direct that the powers conferred on it by sub-section (1) of section 10, and section 19, of the said Ordinance shall, subject to any general or special order of the Central Government, be exercisable in the State of Mysore also by the Controller of Civil Supplies, Mysore.

ORDER

ORDERED that a copy of the above Notification be communicated to all Governments of Parts A and B States (except Jammu and Kashmir); all Chief Commissioners of Part C States including Andaman and Nicobar Islands; all Ministries

of the Government of India; Cabinet Secretariat; Prime Minister's Secretariat; Secretary to the President; the Indian Trade Commissioners; all Indian Embassies; the High Commissioner for India, London; His Majesty's Trade Commissioner in India; all Chambers of Commerce and Associations; the Director-General of Commercial Intelligence and Statistics, Calcutta; the High Commissioner for India in Pakistan, Karachi; the High Commissioner for Pakistan in India, New Delhi; the Secretary, Indian Tariff Board and the Secretary, Planning Commission.

ORDERED also that it be published in the *Gazette of India*.

[No. PC-2(14)/50.]

K. RAM, Dy. Secy.

NOTIFICATION.

No. L.D. 2674—Legis. 6-5C-59, dated Bangalore, 8th December 1950.

Ordered that the accompanying Notification No. S. R. O. 584, dated the 11th September 1950 of the Ministry of Industry and Supply, published in the *Gazette of India*, Part II, Section 3, dated the 11th September 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF INDUSTRY AND SUPPLY.

NOTIFICATION.

New Delhi, the 11th September, 1950.

S. R. O. 584.—In exercise of the powers conferred by section 22 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), the Central Government is pleased to direct that the powers conferred on it by claues (b) of section 13, sub-section (1) of section 16 and section 17 of the said Ordinance, shall, subject to any general or special order of the Central Government, be exercisable also within their respective jurisdictions by the authorities specified in column 1 of the Schedule hereto annexed in respect of the goods specified in the corresponding entry in column 2 of the said schedule.

THE SCHEDULE.

Authorities	*Goods*
Director of Industries, Bihar.	Non-ferrous metals, Caustic Soda, Soda Ash, Tanning materials, namely, wattle bark, wattle extract, quebracho.
Controller of Miscellaneous Civil Supplies, Bihar.	Bicycles, cycle tyres and tubes, electric bulbs, razor blades, infants' foods (Glaxo, Horlicks and Cow and Gate Milk) and Casein.
Controller of Civil Supplies in Mysore, Bangalore. Civil Supplies Commissioner, Bhopal. The District Magistrate, Sehore. The District Magistrate, Raisen. Director of Food and Civil Supplies, Vindhya Pradesh. All Deputy Commissioners in the Vindhya Pradesh State. The Director of Civil Supplies, Himachal Pradesh. The Director of Controlled Commodities, Travancore-Cochin State, Trivandrum. The Assistant Commissioner and District Magistrate, Coorg.	All goods to which the Ordinance applies.

ORDER.

ORDERED that a copy of the above Notification be communicated to all Governments of Parts A and B States (except Jammu and Kashmir), all Chief Commissioners of Part C States including Andaman and Nicobar Islands, all Ministries of the Government of India, Cabinet Secretariat, Prime Minister's Secretariat, Secretary to the President, the Indian Trade Commissioners, all Indian Embassies, the High Commissioner for India, London, His Majesty's Trade Commissioner in India, all Chambers of Commerce and Associations, the Director of Commercial Intelligence and Statistics, Calcutta, the High Commissioner for India in Pakistan, Karachi, the High Commissioner for Pakistan in India, New Delhi, the Secretary, Indian Tariff Board, and the Secretary, Planning Commission.

ORDERED also that it be published in the *Gazette of India*.

[No. I (4)-32 (4)/50.]

S. A. VENKATARAMAN,
Secretary.

NOTIFICATION. 432

No. L.D. 2712—Legis. 6-50-63, dated Bangalore, the 11th December 1950.

Ordered that the accompanying Notifications No. S. R. O. 970 and 971, dated the 25th November 1950 of the Ministry of Industry and Supply, under the Supply and Prices of Goods Ordinance, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 25th November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF INDUSTRY AND SUPPLY

NOTIFICATIONS.

New Delhi, the 25th November 1950.

S.R.O. 970.—In exercise of the powers conferred by Sections 7 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), the Central Government is pleased to direct that every dealer in or producer of non-ferrous metals including brass (unwrought and semi-manufactured) holding stocks of such metals of five tons or more on the 1st December 1950 and the 1st day of every subsequent month thereafter, shall declare in writing on or before the 15th December 1950 and the 15th day of every subsequent month thereafter respectively, to the Government of India in the Ministry of Industry and Supply, New Delhi, the stocks of such metals held by him on the first mentioned date. A copy of such declaration shall be sent by him to the Government of the State in which the dealer or producer is carrying on business or any officer authorised by him in this behalf.

ORDER.

Ordered that a copy of the above notification be communicated to all Governments of Parts A and B States (except Jammu and Kashmir); all Chief Commissioners of Part C States including Andaman and Nicobar Islands; all Ministries of the Government of India; Cabinet Secretariat; Prime Minister's Secretariat; Secretary to the President; the Indian Trade Commissioners; all Indian Embassies; the High Commissioner for India, London, His Majesty's Trade Commissioner in India; all Chambers of Commerce and Associations; the Director General of Commercial Intelligence and Statistics, Calcutta; the High Commissioner for India in Pakistan, Karachi; the High Commissioner for Pakistan in India, New Delhi; the Secretary, Indian Tariff Board and the Secretary, Planning Commission.

Ordered also that it be published in the *Gazette of India*.

[No. PC-15(5)/50/1.]

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S.R.O. 971. In exercise of the powers conferred by Sections 7 and 19 of the Supply and Prices of Goods Ordinance, 1950 (No. XXVI of 1950), the Central Government is pleased to direct that every dealer in, and producer of tanning materials (Wattle bark, Wattle extract and Quebracho) shall, on or before the 15th December 1950 and the 15th day of every subsequent month thereafter, declare in writing to the Director General of Industries and Supplies, New Delhi, the stock of such goods held by him at the end of the preceding month.

ORDER

Ordered that a copy of the above notification be communicated to all Governments of Parts A and B States (except Jammu and Kashmir); all Chief Commissioners of Part C States including Andaman and Nicobar Islands; all Ministries of the Government of India; Cabinet Secretariat; Prime Minister's Secretariat; Secretary to the President; the Indian Trade Commissioners; all Indian Embassies; the High Commissioner for India, London; His Majesty's Trade Commissioner in India; all Chambers of Commerce and Associations; the Director-General of Commercial Intelligence and Statistics, Calcutta; the High Commissioner for India in Pakistan, Karachi; the High Commissioner for Pakistan in India, New Delhi; the Secretary, Indian Tariff Board and the Secretary, Planning Commission.

Ordered also that it be published in the *Gazette of India*.

[No. PC-15(5)/50/2.]

K. RAM, Dy. Secy.

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PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L. 2628—L.W. 190-50-2, dated Bangalore, 24th October 1950.

Ordered that the following Notification No. S.R.O. 386, dated th August 1950, of the Government of India, Ministry of Labour, blishing the award of the All-India Industrial Tribunal (Bank isputes) in the matter of an industrial dispute, regarding the pay ales, dearness allowance, terms and conditions of employment, etc., workmen in certain banking companies, be republished in the *ysore Gazette*, for general information.

By Order of
His Highness the Maharaja,
B. S. PUTTASWAMY,
Secretary to Government,
Law Department.

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 12th August 1950

S.R.O. 386.—In pursuance of section 17 of the Industrial Disputes Act, 7 (XIV of 1947), the Central Government is pleased to publish the following ard of the All-India Industrial Tribunal (Bank Disputes) in the matter of

an industrial dispute regarding the pay scales, dearness allowance, terms a conditions of employment, etc., of workmen in certain banking companies:

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

The banking companies mentioned in Schedule I to the orders of t Ministry of Labour No. LR-2 (212), dated the 13th June 19 and 28th September 1949 [1].

AND

Their workmen

In the matter of an industrial dispute, *re*: the employees' pay scal dearness allowance, terms and conditions of their employment, e

Present:

Mr. K. C. Sen, *Chairman*,
Mr. J. N. Majumdar, *Member*,
Mr. N. Chandrasekhara Aiyar, *Member*.

Appearances:

(As in Appendix V)

AWARD.

CHAPTER I

INTRODUCTORY.

By a Notification No. LR 2 (205), dated the 13th June 1949 the Governme of India in the Ministry of Labour, in exercise of the powers conferred by secti 7 of the Industrial Disputes Act, 1947 (XIV of 1947), constituted this Tribun for the adjudication of industrial disputes in banking companies. The Tribun consisted of :—

1. Mr. K. C. Sen, President, Industrial Court, Bombay and retired Judge of the High Court of Judicature, Bombay ... Chairman.
2. Mr. S. P. Varma, Chairman, Industrial Tribunal, Dhanbad and retired Judge of the High Court of Judicature, Patna ... Member.
3. Mr. J. N. Majumdar, retired Judge of the High Court of Judicature, Calcutta ... Member.

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1. *Vide* Appendix I.

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A "banking company" was defined in the Industrial Disputes (Banking and Insurance Companies) Ordinance 1949 (VI of 1949 now replaced by Act LIVof 1949)[1] as a banking company as defined in section 5 of the Banking Companies Act (X of 1949) having branches or other establishments in more than one Province, and as including the Imperial Bank of India.

2. By a further Notification No. LR-60(47), dated the 24th August 1949, Mr. N. Chandrasekhara Aiyar, retired Judge of the High Court of Judicature, Madras was appointed as a member of the Tribunal in place of Mr. S. P. Varma whose services had ceased to be available to the Tribunal, Mr. Aiyar joined the Tribunal on the 12th September 1949. His services were, however, not available from the afternoon of the 23rd November 1949 to the forenoon of the 20th February 1950, during which period his services were placed at the disposal of the Ministry of External Affairs as a member of the Indo-Pakistan Boundary Disputes Tribunal.

3. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947) the industrial disputes that had arisen between 82 scheduled and 88 non-scheduled banking companies and their employees were referred for adjudication to this Tribunal by the Government of India in the Ministry of Labour by their order No. LR-2 (212), dated the 13th June 1949[1]. The names of the banking companies which are parties to the disputes and the subject matters of the said disputes are mentioned in schedule I and II respectively to the said order. By a further Notification No. LR-2(212), dated the 12th August 1949[1] the words "or is apprehended" were inserted after the words "whereas an industrial dispute has arisen" occurring in the said order of reference. By another Notification No. LR-2(272), dated the 6th February 1950[1] the name of "Habib Bank, Limited" was deleted from Group C of the scheduled banks and inserted in Group B of such banks in schedule I to the said Government order. By order No. LR-2(212), dated the 28th September 1949[1] the industrial disputes between 1 scheduled and 34 non-scheduled banking companies and their employees were referred to this Tribunal. The Ministry of Labour by their letter No. LR-2(212), dated the 13th October 1949 explained that the reference was found necessary since a large number of banks coming within the scope of the Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949, now replaced by Act LIV of 1949) had been excluded from schedule I to the first order of reference. It was further stated in the said letter that a fairly large number of banks outside the scope of the Ordinance had erroneously been included in the former reference and that it would be open to the Tribunal to exclude such banks from the operation of its award.

4. By a later order, No. LR-2(248), dated the 5th January 1950, the industrial disputes between 5 scheduled banking companies and their employees in the former State of Baroda, now merged in the State of Bombay, were also referred to this Tribunal. Schedule II to the said order contained the 17 demands which formed the subject matter of the said dispute. By another order, No. LR-2(252), dated the 1st February 1950, an industrial dispute between the Imperial Bank of India (Madras Circle) and their employees was also referred to the Tribunal for adjudication.

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1. *Vide* Appendix I.

5. Besides the above, certain industrial disputes relating to banking companies having branches in more than one State were pending before the State Industrial Tribunals. The proceedings in respect of those disputes abated under sub-section 5 of the Industrial disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949). The Ministry of Labour, by their letter No. LR-2(212), dated the 15th July 1949 directed all the State Governments except Assam, Bihar, C.P. and Berar and Delhi to forward to this Tribunal the records of such industrial disputes. The records of such pending disputes were received from various States but the Tribunal wanted a regular order of reference in writing from the Central Government in respect of such matters in view of sub-section (2) of section 5 of the said Ordinance. Accordingly separate references regarding such matters pending in the States of Bombay, Delhi, the U.P. and West Bengal were made by the Government of India.

6. Separate awards have been made by the Tribunal on the references regarding the disputes between the banks in Baroda and the Imperial Bank of India (Madras Circle) and their respective employees, as well as the disputes in the States of Bombay, Delhi, the U.P. and West Bengal which were pending before the respective State Tribunals.

7. On the 4th July 1949 the Chairman convened an informal meeting of the representatives of banks situated in the city of Bombay and their employees in order to prepare a tentative programme for the conduct of the proceedings. Representatives of 17 banks and of the Indian Banks Association were present at the said meeting, and bank employees of Bombay were represented by the General Secretary of the Federation of Bank Employees, Bombay. At the said meeting it was decided that notices to employees should be given through banks and unions asking the employees to state particulars of their demands and the grounds on which they were based. It was also decided that the statements of claims of the employees or unions should be sent to the Tribunal and the banks concerned by the 6th August 1949 and that the banks should send their written statements in reply to the demands to the Tribunal and the employees or unions concerned by the 3rd September 1949. The first hearing of the matter was also fixed in Bombay for the 12th September 1949.

8. Notices were, accordingly, issued from the 9th to the 12th July 1949 to all the banks covered by Schedule I to the Government order No. LR-2 (212), dated the 13th June 1949 together with copies of a notice to be published for information of the employees of the banks concerned including their branches. Similar notices were issued on the 25th November 1949 to the banks covered by the reference, dated the 28th September 1949. By a separate circular, dated the 22nd November 1949 the banks were further directed to file affidavits to the effect that the instructions given by the Tribunal had been complied with, to which 65 banks replied in the affirmative. Separate notices were issued on the 8th July 1949 to 13 unions of bank employees whose names and addresses had been supplied to this Tribunal by the Ministry of Labour by a letter, dated the 15th June 1949.

9. In response to the above-mentioned notices, statements of claims were received from 290 unions and elected representatives of employees all over the country details of which are shown in the table given below :

State	Statement of claims submitted by:			
	Regional Unions*	Other Unions†	Elected representatives of employees	Total
Assam	..	1	..	1
Bihar	1	7	7	15
Bombay	4	6	37	47
Madhya Pradesh	..	..	31	31
Madras	..	6	56	62
Orissa	..	..	1	1
Punjab	..	2	12	14
The Uttar Pradesh	3	..	15	18
West Bengal	..	23	9	32
Delhi	..	4	8	12
Other areas	5	2	50	57
	13	51	226	290

* Regional Unions are unions organized on a regional basis irrespective of the banks in which the members are employed.

† Other unions are unions organized in each case by the employees of a particular bank.

A list of Unions referred to above has been given in Appendix II.

10. The following table gives the distribution of the statements of claims received from the employees of banks arranged according to the classification of banks adopted in the Government orders, dated the 13th June and the 28th September 1949.

Group	Number of banks
Scheduled :	
Group A	12
„ B	6
„ C	36
„ D	1
Non-scheduled :	
Group A	5
„ B	1
TOTAL ..	61

11. Written statements in reply to the demands made by the Union or representatives of employees were received from the following numbers of banks arranged by groups according to the Government orders referred to above.

Group	Number of banks
Scheduled :	
Group A	12
„ B	6
„ C	30
„ D	1
Non-scheduled :	
Group A	5
TOTAL ..	54

12. While the demands and written statements in reply were being received, demands for interim relief were pouring in from different parts of the country, one of the first to be received being one from the United Provinces Bank Employees' Union, Kanpur. There, on the 22nd May 1949, the workmen of most of the banks had served on their respective managements notices of a strike to be held on the 21st June 1949 in case the demands made by them were not conceded. Along with those demands the employees had also put forward a claim for interim relief. On the 17th and 18th June 1949 a conference was held at the instance of the Chief Labour Commissioner (Central) at Patna which was attended by representatives of the banks and the U.P. Bank Employees' Union.

13. The Central Government sent a copy of the report of the said conference to the Tribunal for information and such action as it might consider appropriate. In view of the urgency of the settlement of the said dispute the Tribunal heard the parties at Lucknow on the 4th and 5th August 1949 and gave its award regarding interim relief in respect of 24 banks on the 25th August 1949. By a second award, dated the 23rd September 1949, the employees of 12 banks which were not covered by the previous award were granted interim relief on the lines of the earlier award.

14. Applications for interim relief were also received from 20 unions of West Bengal, 3 of Madras, 2 of Bombay, 1 of Bihar and almost all the unions of Delhi and the Punjab. The Tribunal by three separate awards, dated the 17th October 1949, granted interim relief to the bank employees of the States of Bombay, Bihar and Delhi, and the Punjab. By two other awards, dated the 2nd December 1949 the bank employees in the States of Madras and West Bengal were also granted similar relief. By an award, dated the 21st February 1950 the scope of the interim relief award for the bank employees of the State of Bombay was extended to cover the employees of the Imperial Bank of India (Bombay Circle). An award was also made in terms of an agreement, dated the 21st February 1950 between the Indian Bank, Limited, Madras and its workmen in respect of certain categories of workmen.

15. Extracts and summaries of the awards regarding interim relief have been given in Appendix III.

16. The Tribunal commenced the hearing of the general issues on the 12th September 1949 in the Council Hall, Bombay. Representatives of 34 banks and 32 unions attended the said hearing.

17. The first item in Schedule II to the Government order No. LR-2 (212), dated the 13th June 1949 (to be referred to hereinafter as Schedule II) to be taken up for consideration was the classification of banks for the purposes of this adjudication and the classification of their branches (items 33 and 34 in Schedule II). After a few days' hearing, it was felt that in view of the large number of applications for interim relief still pending and of complaints regarding wrongful dismissal and other forms of victimization, it was necessary for the Tribunal to visit certain principal cities and dispose of as many of such applications as possible before reverting to the main adjudication proceedings. Accordingly the Tribunal decided to visit Delhi, Patna, Calcutta, Madras, Trivandrum and Bangalore. The question of interim relief to be granted to the employees in the State of Bombay was taken up for consideration on the 14th September 1949. At Delhi the Tribunal sat from the 19th to the 23rd September and heard arguments as to interim relief and as to 110 cases of

alleged victimization. The award as to interim relief was made on the 17th October 1949 and that as to victimization cases was made on the 19th January 1950.

18. At Patna the Tribunal held its sittings on the 26th September 1949. The Tribunal made its award regarding interim relief on the 17th October 1949 and its decisions regarding the cases of alleged victimization heard at Patna were included in its award regarding such cases arising in the States of Delhi and the Punjab.

19. At Calcutta the Tribunal sat from the 8th to the 17th October 1949. Claims for interim relief had been advanced on behalf of the workmen of 20 banking companies. The Tribunal by an award, dated the 2nd December 1949 laid down scales for interim relief for the workmen of the Imperial Bank of India and other banks having their headquarters or branches in West Bengal.

20. Cases of alleged victimization were also heard and an award in respect of them was made on the 5th January 1950.

21. At Madras the sittings of the Tribunal were held from the 27th October to the 3rd November 1949. As usual the principal question that was agitated by the employees was that of interim relief. The Tribunal made an award, dated the 2nd December 1949 relating to this demand.

22. The Tribunal by an award, dated the 4th November 1949 also gave its decisions in respect of 8 cases of alleged victimization heard during its stay at Madras.

23. At Trivandrum the Tribunal sat on the 8th and 9th November 1949. The non-scheduled banks of the West Coast had been asked to attend but they were not present. The representatives of the All-Travancore Bank Employees' Union, on behalf of the employees serving in the United State of Travancore and Cochin, filed a memorandum before the Tribunal.

24. At Bangalore the sittings of the Tribunal were held on the 14th and 15th November 1949. The question whether the Tribunal had jurisdiction over a bank or a branch thereof situated in a State which had acceded to India but had not been merged therein, was discussed at length. The decision of the Tribunal in respect of the said matter was incorporated in the interim relief award for Madras referred to above.

25. Sometimes before this the Tribunal had felt that too large a part of its time was being taken up by cases of alleged victimization, applications for retrenchment, etc., that were filed before it and that its main work, that of going into the general questions affecting the relationship between the management of banking companies and their employees, was being hampered and delayed. A suggestion was, therefore, made to the Central Government that single members of the Tribunal should be authorised to do this work by a suitable amendment or addition to the Industrial Disputes (Central) Rules 1947. In response to this suggestion the Industrial Tribunal (Procedure) Rules, 1949 were framed by Government. These rules will be found in Appendix IV. Accordingly a large number of cases and matters pending before the Tribunal were divided amongst the members for enquiry and report to the Tribunal; and the members of the Tribunal began to sit separately at different centres from the 3rd December 1949.

26. Before the Tribunal split up for separate hearings it had adopted the practice of allotting a few days at each place of its sitting for discussion of such general issues as the employees might be specially interested in. At certain places the employees, and at some places several of the banks as well, wanted that all the general issues should be discussed locally. On the Tribunal's pointing out that if this request was granted it would result in similar requests being made by employees at other places, which would involve not only a needless repetition of arguments but the proceedings being continued indefinitely, the employees agreed to the original programme as to the hearing of all the general issues at Bombay subject to the employees' representatives being paid by the banks their costs of travelling and of stay at Bombay. The Tribunal ordered such costs to be paid; and it moved the Central Government to make an express provision in the Industrial Disputes (Central) Rules, 1947 with regard to the Tribunal's power to award such costs. Accordingly rule 21-A was framed by the Central Government in exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947.[4]

27. The Members of the Tribunal sat separately at Bombay, Calcutta, Madras, Dehra Dun, Lucknow, Nagpur, Gauhati, Banaras and Mussoorie between the 3rd December 1949 and the end of July, 1950 and 442 cases of victimization and 16 cases of retirement were thus dealt with.

28. The Tribunal's award regarding cases of alleged victimization and orders on applications for retrenchment which have been made up to date (most of which have already been published) will be found reproduced in Appendix IX. We thought it expedient to adopt the policy of not entertaining such grievances or complaints as could be said to have arisen before the 1st January 1947. Certain applications of this nature came before the Tribunal very late; so we adopted the practice of not entertaining them after the 31st March 1950, unless the delay was explained to our satisfaction.

29. The second hearing of the general issues commenced at Bombay on the 16th January 1950 and concluded on the 3rd April 1950. Representatives of 55 banks and 48 unions attended the said proceedings.[5] The total number of days taken by the hearing of the general issues was 42. The hearing of questions relating to interim relief in the different states occupied in all 15 days. The hearing of cases of alleged victimization and applications for retrenchment took 102 days; the number of victimization cases disposed of up to date is 651; 16 applications for retrenchment have been disposed of and one such application is still pending. The hearing of matters which had been pending before Tribunals or Courts in the different States and which were referred to us took 9 days; and the hearing of disputes in the State of Baroda and the State of Saurashtra, which were also separately referred to us, occupied 3 days.

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4. *Vide* Appendix IV.
5. *Vide* Appendix V.

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CHAPTER II

Certain Questions regarding Jurisdiction

30. At the commencement of our proceedings we were met with certain objections against our jurisdiction which were subsequently elaborated towards the end of the hearing at Bombay. The main part of those objections, however, came from Mr. A. C. Beynon, who represented certain Exchange Banks. They may be summarised as under:

(1) In certain banks and certain branches of some banks there is no existing dispute between the employers and the employees; with regard to such cases the statement appearing in the Government Order No. LR-2(212), dated the 13th June 1949 that "an industrial dispute has arisen" was not justified, and the Tribunal has no jurisdiction.

(2) As to the industrial disputes which are said to be "apprehended", it is doubtful whether the legislative provision regarding them is valid; but even if it be valid, the Tribunal must see (*a*) whether Government had materials before them suggesting that an industrial dispute might be apprehended and applied their minds to such materials before they made the declaration that such a dispute was apprehended, (*b*) whether the materials were such as to justify such apprehension and (*c*) whether even if these conditions were fulfilled the apprehension crystallised into an actual industrial dispute at the time of the hearing.

(3) The notification, dated the 12th August 1949 amending the order, dated the 13th June 1949, by inserting the words "or is apprehended" after the words "Whereas an industrial dispute has arisen" is bad in law and of no effect.

31. We proceed to deal with these objections in the same order. To take first the objection that in certain banks and branches there were in fact no disputes; this is undoubtedly true. The employees who sent the Tribunal particulars of their claims and those who appeared or sent their representatives before it did not represent the employees of all the banks and all the branches covered by the Government orders, dated the 13th June 1949 and the 28th September 1949. Some of the banks so covered, *e.g.*, the Comptoir National D'Escompte de Paris and the Netherlands Trading Society, appeared under protest and said that there were no disputes between them and their employees. In certain cases statements were received from certain employees claiming to represent all the employees in their banks, or particular branches thereof, to the effect that they had no differences with their employers; and certain banks filed affidavits about the non-existence of such differences or disputes so far as they were concerned. Reliance was placed in this connection on the case of the *Kandan Textiles Limited* v. *The Industrial Tribunal, Madras and others* decided by the High Court of Madras on the 26th August 1949. In that case the Government of Madras had referred an alleged dispute between the Kandan Textiles Limited and their workers to the Industrial Tribunal sitting at Madras for adjudication and the said Tribunal had made an award

and the Government had declared the said award to be binding on the employers and the employees concerned. An application to quash the said order having been made to the High Court, it was found that the Government's order of reference had been based on nothing more than a report made by the Commissioner of Labour, Madras, to the Government that an industrial dispute had arisen between the workers and the management of the Kandan Textiles Limited and a letter addressed by the President of one of the two workers' unions to the Government. The report of the Commissioner of Labour had been based on two letters addressed to him by the President of the Union, while the details of the dispute referred as mentioned in the Government's order of reference has been copied *verbatim* from the said President's letter to the Government; but none of those details were to be found in the two letters addressed to the Commissioner of Labour, nor had any demands concerning any of them been made to the management; and the enumeration of the details of the dispute in the order of reference omitted the only dispute reported by the Commissioner of Labour. In these circumstances the learned Judges felt bound to hold that the Government had not applied their mind to the relevant materials placed before them, before making the reference, and they, accordingly, quashed the reference and the Tribunal's proceedings and award.

32. We agree that where it is clearly established that an industrial dispute, stated in the reference to a Tribunal to exist, does not exist or cannot be said to have been found by Government to exist, the Tribunal should hold that the reference should not have been made on the ground of an existing industrial dispute but if the reference says (as the reference in the Madras case does not appear to have said) that such a dispute is apprehended, or that such a dispute exists or is apprehended, different considerations, as we shall show below, would apply. We think that where the reference to the Tribunal is on the basis only of an existing industrial dispute, the Tribunal is entitled to proceed on the presumption that such a dispute exists, unless and until such presumption is displaced or rebutted by positive evidence; and that on such displacement or rebuttal the Tribunal will have no further jurisdiction in the matter. It is an accepted principle of arbitration that if there be no difference between the parties, there is nothing for the arbitrator to arbitrate about; and as observed by du Parcq, L.J. in R/2 *V. National Arbitration Tribunal, Exparte Keable Press, Ltd.* "In some cases there may be a doubt whether there is a dispute between employer and workmen. If the matter came before the Tribunal and it became clear that there was no dispute, then I suppose everybody would go away happy and that would be an end of the matter."

33. There may be cases in which an industrial dispute exists in the head office or some of the branches of a bank but not in the other branches. In such cases it is necessary to remember that a banking company does not work separately in each of its offices and branches and that all of them form one organisation, so that it is not possible to regard each branch or office as a separate entity. Of course, a dispute may be shown or represented to exist only in a particular branch. Under section 18 of the Industrial Disputes Act, 1947, the award which is declared by the appropriate Government to be binding under sub-section (2) of section 15 of the Act would be binding on (*a*) all the parties to the industrial dispute and (*b*) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Tribunal records the opinion that they were so summoned without proper cause. Sub-section

1. Russell on Arbitration and Award, 11th Edn. p. 329.
2. (1948) 2 All-England Law Reports 633.

(*d*) of section 18 goes further and says that the award shall be binding on "all persons who subsequently become employed" in the establishment or part thereof concerned in the dispute. In the present case the Government order of the 13th June 1949 names as the parties to the industrial dispute the banking companies mentioned in Schedule I annexed thereto, including their branches, and their employees. The intention, therefore, is that the individual employees (in branches or elsewhere) who may not be concerned in the dispute are not to be exempted from the operation of the award. That intention, in our opinion, is justified because it is appropriate to treat the whole body of employees of a bank including its branches, as one body just as the bank and its branches form one unified organization. We do not, therefore, think that it would be proper or legitimate to treat the employees of a particular branch of a bank who may not have raised a dispute as separate from those who have done so. Employees in certain branches may not have come forward because their co-workers elsewhere are fighting their battle. If such employees were to be placed on a footing different from those who have actually raised the dispute, the main object of industrial arbitration in cases of collective dispute, namely, collective settlement, would be frustrated. If industrial disputes are to be confined only to such workmen as are vocal or as are members of a union which raises a dispute, the inevitable result would be that the employees who are silent to-day would start making demands tomorrow and the reverse of industrial peace would be achieved. It is with this object, we believe, that a Board or Tribunal has been invested, in section 18 of the Act, with the power of summoning parties other than the original parties to an industrial dispute, "as parties to the dispute", a power analogous to that vested in a civil court under rule 8 of Order I of the Code of Civil Procedure. The principle applicable is thus stated in Explanation VI to section 11 of the said Code; "Where persons litigate *bona fide* in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating".

34. To proceed next to the question of apprehended disputes, it has, in the first place, been contended that the idea of an apprehended dispute being vague and subjective, it is difficult to adjust the principles of arbitration to such a concept and it is doubtful how far legislation as to the reference of such disputes for adjudication can be regarded as valid. The essence of a dispute is a difference between two parties, one making a claim and the other denying or refusing it. In the Kandan Textiles case referred to above it was observed, "It seems to us, on a fair reading of section 10 that the Government must have reason to believe that in a particular business a definite dispute is known to exist or is apprehended by reason of demands and discussions taking place amongst the workers and the management". Under section 10 of the Act, however, Government are entitled to refer a dispute to a Tribunal merely if an industrial dispute is apprehended, presumably by Government, *i.e.*, on Government coming to entertain a certain subjective state of mind. It has been contended that such subjective state of mind need not always be founded on "demands and discussions" a situation in which no party may have actually made any demands or been in a position to consider, meet or refuse them. In such a situation, it has been asked, how is it possible for the arbitrator to apply the principles of arbitration to the alleged dispute? The ordinary law of arbitration that would apply, it has been contended, is that where there has been an agreement as to submission to arbitration, it would be a condition precedent to the arbitrator entering

upon any form of inquiry that a difference should have arisen between the parties (*London and Noth Western and Great Western Railway Companies* v. *Billington Ltd.*)[3]. It was further contended that the application of the ordinary law of arbitration should be presumed unless the statute made it clear that it was to be abrogated or modified. The repugnance that a provision regarding reference to adjudication of apprehended disputes might arouse in some judicial minds is illustrated in *Rex* v. *National Arbitration Tribunal*[4], where Bennet J, with reference to a certain provision in the Conditions of Employment and National Arbitration Order, 1940, beginning with the words, "If any trade dispute exists or is apprehended", said, "There have crept into that paragraph three words which, if they have the effect of enlarging the meaning of the expression 'trade dispute' ought not to be there. The three words are 'or is apprehended'. I am not sure what these words mean. Apprehended by whom? By the Minister, or by some interested or disinterested spectator? Whatever their intention is, it is clear that the Minister has no power to refer to the Tribunal a dispute which someone thinks may arise. His only power is to refer an existing dispute". Bennett J was one of a bench of the three Judges of the Court of Appeal which allowed an appeal from the decision of a Divisional Court dismissing an application for an order prohibiting the National Arbitration Tribunal from adjudicating on the dispute between the National Association of Local Government Officers and the Bolton Corporation. The decision of the Court of Appeal was reversed by the House of lords[5].

35. It is to be noted, in the first place, that so far as the Industrial Disputes Act, 1947, is concerned the words "or is apprehended" can hardly be characterised as having "crept" into section 10, as if by inadvertence. Those words have been taken from an English enactment and must be deemed to have been deliberately inserted. It is further important to bear in mind the difference between the objects and functions of industrial arbitration and those of the ordinary law of the land: the matter has been discussed at length by the High Court of Madras in the case of *C. Baktavatsalu Nayudu* v. *The Chrome Leather Co., Ltd.*[6] There the learned Judges cited with approval several passages from "Conciliation and Arbitration in Industrial Disputes", a publication of the International Labour Organization and "Labour Disputes and Collective Bargaining" by Ludwig Teller. We may refer to the following passages quoted from the first publication: "Despite the fact that conciliation and arbitration institutions are often actually described as courts they are shortly distinguished from the ordinary Courts of law" (page 19). "The function of conciliation and arbitration is to establish a compromise between the interests of the parties to a dispute and create a new basis for their mutual relations—that is to say, to make law and not, as in the judicial settlement of a dispute on rights, to interpret it..... In the first case, therefore, elucidation of the facts is the basis for a settlement of the legal position by a Judge; in the second, it is the basis for the creation of fresh law, whether in the form of an agreement between the parties or of a solution imposed by the court or board on its own authority or directly by the State." (p. 90). "The settlement of disputes on collective interests by conciliation and arbitration is in fact less a judicial than an

3. (1899) A.C. 79.
4. (1941) 2 K.B. 405.
5. (1943) A.C. 166.
6. (1949) 1 F.J.R. 84.

administrative and even a legislative function of the State, and in its performance the principles of civil law concerning finality can be applied only after careful adaptation to the special needs of this branch of law." (p. 127).

36. We also quote one of the passages cited by the learned Judges from "Labour Disputes and Collective Bargaining" by Ludwig Teller. "Industrial arbitration may involve the extension of an existing agreement, or the making of a new one or in general the creation of new obligations or modifications of old ones, while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements." (Vol. I, p. 536).

37. The learned Judges observed: "Although we are not disposed to repel an argument that in construing a statute we should presume that the ordinary law of the land is to be applied unless the statute makes it clear that the ordinary law is to be abrogated and that we should not lightly read into it a power in anybody to deprive parties of their freedom to contract or take away from them existing rights, yet we cannot ignore the history of Industrial Legislation or overlook the circumstances that the legislature now frequently passes legislation which interferes with freedom of contract and takes away from persons their existing rights". In that case the learned advocate who appeared for the management relied on the word "adjudication" in section 10 of the Act. The learned Judges referred in that connection to the preamble of the Act, where the word "adjudication" is not used but which says, "whereas it is expedient to make provision for the investigation and *settlement* of industrial disputes," etc., and they said: "We are not prepared to attach any significance to the use of the word "adjudication" and its etymological connection with the word 'Judge'. It is erroneous to think that a Judge can decide only according to the general law of the country. If so required by a statute, he may apply any standards for his decision, such as fairness and reason, rather than the common law." Reference may also be made in this connection to the following observation made by Harries, C.J., in a case decided by the High Court of Calcutta, *Re Indian Paper Pulp Co., Ltd.*[7] "The industrial tribunals have in my view much wider powers and their award may contain provisions for the settlement of a dispute which no Court could order if it was bound by the ordinary law of the land."

38. Having regard to the principles enunciated in the decisions referred to above, it seems to us that the insertion of the words "or is apprehended" in section 10 of the Industrial Disputes Act cannot be regarded as a piece of legislation which is infructuous or of no effect. The main object of industrial legislation is the maintenance of industrial peace, and one of the principal ways of attaining that object is to prevent an apprehended dispute from ripening into an actual dispute by the application of the machinery of adjudication. If, therefore, such a legislative enactment does not appear to be moulded according to the ordinary canons of arbitration that cannot be regarded as a defect or as something that renders its provisions nugatory. The materials needed for Government's entertaining an apprehension regarding a possible industrial dispute would be probable demands and probable refusal thereof, based on their knowledge of the existing conditions in a particular industry and of the usual patterns of behaviour on the part of the employers and the employees. In our opinion, in such cases a Tribunal would not be at liberty, except in a case like that of Kandan Textiles, Ltd., to prove into the facts on

7. [1949] (1 F.J.R.) 33.

which the apprehension of Government was founded. Such apprehension is a subjective state of mind, perhaps even more subjective so to speak than the state of mind connected by the expression "satisfaction" with which cases like Liversidge's case[8] were concerned. The Tribunal cannot substitute its own mind for the mind of Government and come to a different conclusion and hold that no adequate reasons existed for the apprehension. It would, of course, be necessary for the Tribunal, after the reference, to ask for the particulars of the dispute by calling upon the employees to submit their claims and upon the employers to reply to them.

39. An attempt was also made to show that whereas Government might have the power to refer to a Tribunal an apprehended dispute, the Tribunal would still have no jurisdiction to deal with it, because its jurisdiction is created by sub-section (1) of section 7 of the Act, which says, "The appropriate Government may constitute one or more Industrial Tribunals for the adjudication of industrial disputes in accordance with the provisions of this Act." It was pointed out that the sub-section does not speak of apprehended dispute as well and that the definition of industrial dispute refers only to existing "disputes or differences". Similarly, it was further pointed out that in section 18, which lays down on whom settlements and awards are binding, only industrial disputes are in terms referred to and that towards the end the section even goes on to refer to "all persons who were employed..... on the date of the dispute". It was pointed out that no date could be assigned to an apprehended dispute and that "date of the dispute" could not be construed to mean "date of the apprehension regarding a dispute arising in the mind of Government". With regard to the argument based on the language of section 7 and the first part of section 18, we have little doubt that the expression "dispute" includes an apprehended dispute within its scope and meaning. We are further inclined to hold that the last part of section 18 of the Act, where the reference to "the date of the dispute" occurs, should be taken as referring to such cases as show any difference between the parties, *e.g.*, from the particulars submitted and the replies thereto. The Tribunal or Conciliation Board or officer, as the case may be, may have to decide in such cases when the difference arose, and that would be the date of dispute in such cases.

40. The next objection with which we have to deal is that the Tribunal has no jurisdiction over an apprehended dispute unless and until it has crystallised into an actual industrial dispute. Reliance has been placed on Russell on Arbitration and Award, wherein at page 329 (Eleventh Edition) it is stated: "In the case of an agreement to refer future disputes to arbitration the arbitrator's jurisdiction does not arise until a dispute has arisen", a principle followed in *London and North Western and Great Western Railway Companies* v. *J. H. Billington, Limited*[9], already referred to. It is contended that an agreement as to submission relating to future differences corresponds to a reference by Government under the Industrial Disputes Act and that, therefore, the principle referred to must apply to any adjudication that may follow such reference. We are of the opinion that the ordinary law of arbitration will not apply to the kind of cases we have been considering, for it would be the principal object of the reference, in a case of an apprehended dispute, to prevent its crystallising into an actual dispute, and that for an adjudicator in such a case to wait till such crystallisation occurs would be to defeat the

8. (1942) A.C. 206.
9. (1899) A.C. 79.

very object of the Act. In practice it has usually been found that where an apprehended dispute has been referred for adjudication the Tribunal has found the elements of a dispute to exist, though there may not have been a very explicit formulation of demands and their refusal before; but where even this is not the case the Tribunal may come to the conclusion that a dispute is likely to develop on lines which can be ascertained and would be justified in making an award accordingly. For instance, two factories in the same industry are included in a reference, the workmen of one of which have formulated demands which are resisted by their employers, while those of the second factory have not yet done so, at any rate so clearly. In such a case the Tribunal may include the workmen of the second factory in its award on the footing of an apprehended dispute between such workmen and their employers, provided that the reference is on this basis; for there can be little doubt that if an award regarding only the first factory were made the workmen in the second would at once begin to agitate for relief or advantages similar to those won by their comrades in the first factory. It does not, therefore, appear to us that a Tribunal can have no jurisdiction to deal with cases of apprehended disputes unless they ripen or crystallise into actual disputes.

41. The last set of objections that we have to deal with in this Chapter are concerned with the amendment of the Government order of the 13th June 1949 made by the notification, dated the 12th August 1949. That notification was as follows:—

> "In exercise of the powers conferred by clause (*c*) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to direct that the following amendment shall be made in the Order of the Government of India in the Ministry of Labour No. LR-2(212), dated the 13th June 1949, namely:—
>
> "In the said Order, after the words 'whereas an industrial dispute has arisen' the words 'or is apprehended' shall be inserted."

It will be seen that this notification does not purport to be a fresh reference under clause (*c*) of sub-section (1) of section 10 of the Act. It has been contended before us that this order is bad and of no effect for the following reasons:

(1) In making the amendment the Government of India have not followed the provisions of section 21 of the General Clauses Act and it is, therefore, invalid and of no effect.

(2) There should have been recitals in the order of the 12th August 1949 stating that Government apprehended a dispute between the banking companies concerned and their employees and that it was desirable to refer such dispute for adjudication and explaining why such reference had not been made in the order of the 13th June 1949, and also, in case the apprehension entertained by Government was subsequent to the original reference, giving the date when such apprehension arose in the mind of Government. The absence of such recitals shows that the Government of India did not apply their mind to the matter on which the notification of the 12th August 1949 purports to be based, and for this reason the Tribunal should hold that the alleged apprehension was not in fact entertained by the said Government.

42. Section 21 of the General Clauses Act (X of 1897) reads thus: "where, by any Central Act or Regulation, a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add, to amend, vary or rescind any notifications, orders, rules or bye-laws so issued." It has been contended that the expression "in the like manner" in the section should be interpreted to mean "with recitals such as were made in the original order, and with added recitals to explain the necessity for the amendment". We do not think that there is any substance in the argument. There is no specified form in which an order of reference under section 10 of the Act or an amendment thereof has to be made. The words "in the like manner" have reference, in our opinion, less to the form of the amended notification, order, etc., than to the manner of the exercise of the power referred to at the beginning of the section, *e.g.*, by issue of a notification in the official Gazette. The amending notification begins with a reference to clause (*c*) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947); it then refers to the order of the Government of India in the Ministry of Labour No. LR-2(212), dated the 13th June 1949: and it gives the three words which, by way of amendment, have to be inserted in the original order, specifying the place where they shall be so inserted. We fail to see in this anything suggesting that the Government did not apply their mind to the question before them. In our opinion there was nothing more for them to do. Nor was it necessary for Government to say when the apprehension had arisen in their minds, for the form of the amendment clearly shows an intention to imply that it had been in existence at the date of the original order. The three words inserted appear thus to have been left out of the original order owing to inadvertence. In the result, we do not find anything in the notification of the 12th August 1949 which can be said to detract from its full effect or from our jurisdiction in the matter.

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CHAPTER III

Classification of Banks and Areas

SECTION I

Classification of Banks

43. The first question on which the Tribunal heard the parties was, should banks be classified into different categories for the purposes of this adjudication and if so, on what lines ? (item 33 in Schedule II).

44. The classification adopted by the Government of India in the said Order is as follows :

I—*Scheduled banks having branches in more than one Province or State*

Group A

(*i*) Banks having deposits of over Rs. 50 crores,
(*ii*) Exchange Banks.

Group B

Other scheduled banks having deposits between Rs. 15 and Rs. 50 crores.

Group C

Other scheduled banks.

Group D

Banks under moratorium,
Banks in liquidation,
Banks working under schemes of arrangements,
Banks prohibited from accepting fresh deposits,
Banks regarding which applications for schemes of arrangement are pending.

II—*Non-scheduled banks having offices in more than one Province or State,*

Group A

Banks working normally.

Group B

Banks which are working under schemes of arrangement or are in liquidation, etc.

45. In the Bombay Banks award made by Mr. Justice Divatia on the 8th April 1947 (to be referred to hereinafter as the Divatia award) the following classification was adopted :—

Big banks, *viz.*, those with working funds (paid-up capital, reserves and deposits) of 15 crores and above.

Small banks, *viz.*, all other banks.

46. It seems to us that some form of classification of the banks is necessary though the employees' representatives have generally opposed classification, mainly on the grounds that classification would violate the principle of standardization and mean different rates of pay, etc., for the same class of workmen in different banks and that this would adversely affect the solidarity of the employees and contravene the principle "same work same pay". But they have had to admit that banks vary widely in their resources, their profits and their capacity to pay. Our attention has been drawn to the fact that in New Zealand the Court of Arbitration has recently fixed a uniform scale of salaries for the staff of the State-owned Bank of New Zealand and five privately owned trading banks operating in the said Dominion[1]. It is no doubt a salutary principle to adopt the resources of the industry as a whole as the basis on which pay scales are to be fixed; this has been done in this country in the cotton textile industry. But if, in an industry in which the units vary so greatly in their capacity to pay as the banking industry, the pay scales are to depend on the burden which the industry as a whole can bear, then it is likely that the scales so fixed would fall short of what is actually being paid in the largest banks and would exceed what the smaller banks are able to pay. It is true that what a Tribunal normally fixes as a scale of pay represents the minimum scale; and we find that the Tribunal appointed in West Bengal to adjudicate upon the disputes between a large number of engineering firms in the said State and their employees raised the issue regarding scales of pay in this form: "Minimum basic pay and scales of pay for highly skilled, skilled, semi-skilled and unskilled workers for clerical and supervisory staff. We do not, however, think that if we only fixed scales of pay for the poorest class of banks in the least expensive parts of the country we should adequately discharge our duty to lay down scales of pay for the whole body of bank employees with whom we are concerned. The largest number of awards made in this country concern individual units of particular industries, while we have to deal with a large number and variety of units. The best course for us to adopt, in our opinion, is to classify the banks within our jurisdiction broadly into certain groups according to their working funds or resources, which may be taken generally to reflect their capacity to pay. The bigger banks have pressed for two, while smaller banks have asked for three or more classes, and several have also asked for a further classification in the case of branches. In the Divatia award the learned adjudicator had to deal with twelve big and eighteen small banks at Bombay. We have to deal with 83 scheduled and 122 non-scheduled banks all over the country. Costs of living differ in different parts of the country and in view of this we shall find it necessary to divide it into three classes of areas or localities with reference to such costs. Therefore if we divide the banks into two classes there would be six different scales of pay, etc., and if we divide them into three classes there would be nine different scales of pay, etc. Perhaps a division of scales of pay, etc., into six groups is inherently more attractive than one into nine groups. But it seems to us that we may, in view of the differences in the resources of different banks, aim at three, rather than two, kinds of wages, namely, a minimum wage sufficient to provide for the bare needs of subsistence, a fair wage necessary for health and decency and a living wage necessary to provide a certain standard of comfort[2]. The Industrial Truce Resolution of December 1947 referred *inter alia* to the need for "making

1. "The Bank Officer" (London), June 1949, p. 5.
2. See the "Minimum Wage-Fixing Machinery" published by the International Labour Organisation.

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provision for payment of fair wages to labour" ; and article 43 of our Constitution Act says that the State shall endeavour to secure to all workers "work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities." It is true that though the living wage is the target to be aimed as it has "to be tempered, even in advanced countries, by other considerations, particularly the general level of wages in other industries and the capacity of industry to pay."[3] But a number of banks appear to be incapable of supporting even a fair wage; a certain number are capable of paying a fair wage; while the banks, with the largest resources are able to pay even a living wage. Mr. Justice Higgins, President of the Australian Court of Conciliation and Arbitration, defined the living wage as one which can provide not merely for absolute essentials such as food, shelter and clothing but for a condition of frugal comfort estimated by current human standards." The Royal Commission on the Basic Wage for the Commonwealth of Australia approved of the following description of the "minimum of health and comfort level" by the Commissioner of the Bureau of Labour Statistics of the United States of America (a level corresponding to the living wage):

> "This represents a slightly higher level than that of subsistence, providing not only for the material needs of food, shelter, and body covering, but also for certain comforts, such as clothing sufficient for bodily comfort, and to maintain the wearer's instinct of self-respect and decency, some insurance against the more important misfortunes—death, disability and fire—good education for the children, some amusement, and some expenditure for self-development."

47. It is not possible for this Tribunal to lay down, in the case of any bank or class of banks, a scale of pay and allowances which is below the subsistence level. If any bank is unable to provide for such scales it must be regarded as an uneconomic unit in the industry. For a certain class of banks not more than the subsistence level can be laid down; and for certain others scales of pay, etc., approximating to the living wage can be laid down. Between these two classes would be the banks which can pay something higher than subsistence wages. In our opinion, it would be better to base such classification on the criterion of working funds (paid-up capital, reserves and deposits) rather than deposits alone. Deposits fluctuate according to seasons; therefore, those of a single specific date (*e.g.*, 31-12-1949), as suggested by some parties, would be unsuitable. Leaving out 1947 (in which year some banks were badly affected by the disturbances consequent on the partition of the country) we think that the safest criterion will be the average of the working funds based on the figures of the 30th June and the 31st December of the year 1949. We exclude the figures of 1948 also; the fall in deposits which became noticeable in 1948 became more pronounced in 1949, and though ordinarily we should have thought that there was greater safety in taking the average for a longer period than a year, we think that the average of the figures of 1948 and 1949 might give a misleading picture of certain banks in the present context of events. We do not think that the risk of 'window dressing', as described by the MacMillan Committees[4], is so great in India that it need be guarded against.

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3. Report of the Committee on Fair Wages (1949), p. 8.

4. Report of the Committee on Finance & Industry (Cmd. 3087 of 1931), p. 156.

48. For the purposes of this award we classify the banks, both scheduled and non-scheduled, mentioned in the orders of the 13th June 1949 and the 28th September 1949 as follows:

A. Banks mentioned in Group A among the scheduled banks in the said orders and other banks, if any, having average working funds of Rs. 25 crores and above.

B. Banks having average working funds below Rs. 25 crores and not below Rs. 7½ crores.

C. Banks having average working funds of less than Rs. 7½ crores.

We would recommend that if in future it should so happen that the working fund of a particular bank has been below the lower limit or has been higher than the upper limit set for its class continuously for a period of two years it should then be deemed to have passed into the next lower or the next higher class, as the case may be, provided that the directions made in this award are still being followed by the bank at that date, and provided further that such change will not adversely affect the existing employees. In the case of the Habib Bank, Limited, we think that it should be classed not according to the figures of its deposits, etc., in the Indian Union alone but on its total figures for this country and elsewhere, and we direct accordingly. This principle will obviously apply to the Exchange Banks also, whose capacity to pay has to be determined by global considerations.

49. The next question we take up is, how branch offices should be classified, having regard to the extent of their business (item 34 in Schedule II). Certain banks, *e.g.*, the Central Bank of India, Limited, and the Bank of Baroda, Limited, have adopted a system of classification of their branches under which the pay-scales, etc., of their employees working at a branch are different from and lower than those obtaining at the head office. As already stated, we intend introducing a classification of areas or localities depending on the differing costs of living at different places. Scales of pay, etc., prescribed for a particular locality would be equally binding on all head offices as well as on all branches situated there; and we are averse to making any distinction between a head office and its branches as such, (with the exception of a certain rule regarding very small branches, as stated below). For though it may be true that a branch may not often attract much business or make much profit, it is a part of one entire organization or concern, and the wages, etc., paid to an employee at such a branch must not be allowed to be reduced for such reasons. There can be no objection, however, to his getting less than an employee at the head office on the ground that his branch is situated in an area where the cost of living is less, a criterion of a character different in nature from the criterion of the volume of business or profits.

50. We have classified the banks mainly for purposes of laying down their employees' scales of pay and allowances. Other matters like conditions of service, retirement, benefits and leave will be subject to conditions specifically mentioned in this award, some of which may be related to the classification. We think that in certain circumstances a branch of a small bank would merit special consideration in the application of the pay scales laid down by us; and we accordingly direct that where a branch of a bank of class C has not more than eight employees in all (*i.e.*, officers, clerks and members of the subordinate staff) and is situated at a place of which the population, according to the latest census (of 1941 or any later year), does not exceed 25,000, the pay scales and allowances applicable shall be reduced by 8 1/3 per cent in

the case of such of the employees as are permanent inhabitants of the place with residences of their own.

51. Lastly, an important consideration arises in the case of banks which amalgamate and form a new institution. The resultant bank may not be bound by our award unless the amalgamation is brought about by an existing bank expanding and taking employees of the other amalgamating banks on its staff. In such cases the resultant bank may be found to belong to a class higher than any of the amalgamating banks. This might frustrate one of the main subjects of amalgamation, namely, to cut down expenses. We think that in such a case the resultant bank should be deemed, for a certain period, to belong to the highest class to which any of the amalgamating banks belonged before the amalgamation. We direct that in case any such bank is bound by our award such period shall be three years from the date of the amalgamation, and that after the said period in applying the appropriate scales of pay, etc., the procedure laid down by us regarding adjustment shall be followed. Under our directions, if three banks belonging respectively to classes A, B and C amalgamate and our award is applicable to the resultant bank, the later would belong to class A; if they initially all belonged to class B, the resultant bank would remain in class B for purposes of this award (in case it is applicable) for such period. In the former case the resultant bank would no doubt not only get no benefit but will have to pay the staffs of the former banks B and C at higher scales, but we do not see how such a result can be reasonably counteracted. Such a consequence will probably deter banks from effecting such unequal amalgamations, or if they do so they will be acting with their eyes open.

SECTION II

Classification of Areas

52. We next take up the question of the classification of different areas or localities according to the cost of living. The statistics to be found in the Report (Published in 1949) of Mr. S. Subramanian, Statistician in the office of the Economic Adviser to the Central Government, on an enquiry into family budgets of middle class employees of the said Government, show that the cost of living differs to a material extent in different parts of the country. It is true that the differences that used to exist before the last war in the cost of living at different places have now been substantially reduced owing to rationing and other factors, but it cannot be denied that material differences still persist in living costs between State and State, and between urban, semi-urban and rural areas. In any case, when the levelling factors such as rationing and price control are removed such differences will in all probability reassert themselves. The main source from which such costs can be ascertained is at present Mr. Subramanian's Report which is based on investigations relating to the period November 1945 to August 1946. The validity of the statistics recorded and conclusions reached in that Report have been challenged by certain banks. It was pointed out that unlike the procedure adopted in the Rau Court of Enquiry or Mr. Justice Rajadhyaksha's enquiry in connection with the Posts and Telegraphs Department of the Central Government, no witnesses were examined before this Tribunal nor any budgets (save a solitary one from the State of Madras) filed. Mr. Subramanian's Report, it has been contended, is a compilation based on figures supplied by correspondents who would not only be interested in inflating the figures of their expenses but

who were told, in the letter addressed to them by the Economic Adviser: "This enquiry has been undertaken primarily with a view to enabling Government to help their employees by providing adequate relief to them as and when necessary." It has been further pointed out that with the procedure adopted no cross-examination of the correspondents was possible and that Mr. Justice Rajadhyaksha's report amply shows that a large number of witnesses examined by him had deliberately inflated their expense figures. As against these arguments, most of which have some force, the following considerations must be noticed. In the first place, it is to be remembered that Mr. Subramanian is well-known to be an expert statistician who has been working at family budgets for years; and in his Report he has stated that he found a certain number of budgets unsuitable and rejected them, that all the budgets were subjected to close scrutiny, that he accepted for detailed investigation only those which he considered wholly reliable, such budgets numbering 6,198 and that personal contacts were established with some of the persons selected. The upper income limit was fixed at Rs. 500 per month, the total number of employees falling within such limit being known to be of the order of several hundred thousands; thereafter the problem of choosing an unbiassed random sample in which each family had an equal chance of being included was tackled by the "lottery" method. Secondly, a very detailed list of heads of which information was to be supplied was furnished to each employees selected and after the information was supplied the items of income and expenditure were in each case subjected to careful examination, the expenditure items being particularly checked against the prevailing retail prices and the available consumption figures in respect of cereals, etc. Thirdly, the statistics and the conclusions to be found in the Report were relied upon by both the employee's representatives and the banks in great detail; and that was the reason apparently why no witnesses were examined before the Tribunal nor any budgets (except one) filed; nor did any party show any desire to call Mr. Subramanian as a witness for the purpose of cross-examining him regarding his statistics or conclusions. We think that we must proceed on the assumption that the Report on the whole furnishes valuable material on which, subject to the test furnished by other awards and investigations, we can base our conclusions.

53. From Mr. Subramanian's Report we get figures of the average monthly expenditure and average monthly concessions per family in the different cities and areas of India[5]. From those figures we find that the most expensive places are Bombay, Delhi and Calcutta. Conditions at Ahmedabad (population 5.9 lakhs) approximate to those of Bombay, and Divatia J. by a separate award, made the Bombay award applicable to the banks in that city. The area now included in the term Greater Bombay must also be deemed to be as expensive as the city of Bombay. Similarly, Howrah and Barrackpore, in our opinion, should be held to be as expensive as Calcutta, which should be deemed to include for the purposes of this award, the following places: Behala, Alipore, Cossipore, Garden Reach, Barangore, Tollygunge, the South Suburban Municipal Area and Dum Dum. All these places should, in our opinion, be regarded as forming class I areas.

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5. See pages 60 and 54 (Calcutta), 83 and 78 (Bombay), 128 and 123 (Madras), 151 and 146 (Bengal and Assam), 182 and 177 (Bombay State), 204 and 199 (Madras State), 227 and 222 (Punjab), 259 and 254 (Uttar Pradesh), 282 and 277 (Bihar and Orissa), 304 and 299 (Madhya Pradesh).

54. As to the areas outside the places mentioned above, there are obvious differences in the costs of living in the populous town and in the semi-urban and rural areas. Some of the big banks with branches outside the big towns and cities have adopted the system of classifying their offices and branches not according to States as a whole but according to the importance of different places where such offices and branches are situate, based on their industrial and commercial importance, population, etc. Though *prima facie* there is much to be said for this method there are obvious difficulties in obtaining all the necessary data required in adopting it for the whole of the country. After giving our best consideration to this question we are of opinion that the following places should be held to constitute class II area, *i.e.*, the regions coming next after the places included in class I areas, with regard to the general cost of living.

55. All towns and cities (other than those included in class I areas) shown in the census report of 1941 as possessing population of

50,000 or more in the Punjab.

1,00,000 or more elsewhere.

All places not included in areas of classes I and II will fall into class III areas.

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CHAPTER IV

Scales of Pay: Clerical Staff

SECTION I

The Basic Year

56. The most important questions for our consideration, and those in which the parties have taken the greatest interest, are those relating to scales of pay and dearness allowance (items 1 and 3 in Schedule II). A part of item 3 in Schedule II is thus worded: "Can a portion of the dearness allowance be transferred to, and absorbed in, the basic wage?" This question involves decision of the question, which year should be taken, for the purposes of fixing scales of pay, as the basic year. We propose to consider this question before taking up the questions of scales of pay and dearness allowance.

57. We think it essential that at the lowest level the basic wage should be supplemented by dearness allowance ensuring a fair degree of neutralization of the increased cost of living. For this purpose it is our intention to prescribe a sliding scale of dearness allowance rates. This was not done in Divatia J's award because presumably he thought (like the Central Pay Commission) that cost of living would become more or less stabilized at a certain index figure; his example was followed in several bank awards in West Bengal and in Uttar Pradesh; but certain industries in West Bengal have adopted a sliding scale of dearness allowance formulated by the Bengal Chamber of Commerce. If a scheme with a sliding scale of dearness allowance is to be adopted, two considerations have to be borne in mind: (1) it is desirable that the basic pay should represent as large a part of the total emoluments as possible and (2) the basic pay should be fixed at a point below which the cost of living is not expected, so far as it is permissible to speculate on a matter of this nature, to fall in the near or foreseeable future. Some of the existing pay-scales as fixed by awards relating to disputes not connected with banks, specially those relating to the working class have been geared to the year 1939 as the basic year. It is, however, clear that this is not the case with the Divatia award, which has served as a guide to a number of awards relating to banks in this country, or with the Central Pay Commission's Report. At the date of that award the cost of living index for Bombay was about 255[1]. If the dearness allowance of 25 per cent prescribed in the said award was meant to represent, say, an 80 per cent neutralization of the increase in the cost of living, the scales of pay fixed by the award would appear to relate to an index figure of about 195, which existed between the years 1942 and 1943. As to the second principle, Divatia J observed:

> "The basic pay must be more than the pre-war starting pay because it is common knowledge based on experience of the First World War that although the rise in the cost of living occasioned by the

1. According to the working class cost of living index numbers as published in the *Indian Labour Gazette* (base August 1939 = 100). Index figures as published in the said Gazette are referred to throughout this award, except where any other source is mentioned or indicated.

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second war may go down in future, a part of the rise is bound to remain as a permanent feature in the economic life of the country. The exact extent of it cannot be predicted or measured now because it would depend not only on the steps taken by the authorities concerned to bring down inflation and increase production of necessary articles of consumption but also on world factors such as prices of imported articles, effect of currency, supply and demand of commodities, etc. The amount of dearness allowance which can be given may not fully neutralize the rise in cost of living and a fair living wage. There is, therefore, the need to raise the basic wage to such an amount that along with the dearness allowance, the total emoluments would be sufficient to afford a decent livelihood."

The Central Pay Commission recommended that no dearness allowance should be paid to an employee when the cost of living indices fell below 180 (paragraph 72 of their Report). The Commission were referring, we believe, to All-India index figures which are no longer published; but in Bombay the figure 180 was attained somewhere between 1942 and 1943. The hope of the said Commission that the price levels had reached their peak about the time their Report was written (when the cost of living index was about 285; see page 401 of the Report) has been markedly belied; and it is difficult to foresee at what level the cost of living is likely to be stabilized, in the next few years, for a sufficiently long period to serve as the foundation for a basic pay.

58. In this connection we have considered the merits and disadvantages of choosing the years 1942 and 1944 as the basic year. The merit of the earlier year is that the indices relating to it approximate to the limits fixed by the Central Pay Commission as the starting point for dearness allowance, and that they would appear to be neither too low nor too high (Bombay 150, Ahmedabad 156, Sholapur 155, Jalgaon 180, Kanpur 181, Nagpur 165, Madras 136; see page 784 of the *Indian Labour Gazette* for April 1950), the deviations from the average of the published figures (160) being comparatively low (*plus* 21 in the case of Kanpur and *minus* 24 in the case of Madras). As regards the indices for 1944, the great merit in adopting that year as the base would be that the Central Government are now publishing cost of living index series for 15 towns in different parts of India treating 1944 as the base year (see pages 787 to 795 of the *Indian Labour Gazette* for April 1950). For the seven towns of Bombay, Ahmedabad, Sholapur, Jalgaon, Kanpur, Nagpur and Madras they have been publishing index series with August 1939 as the base, but it would not be difficult to convert those series to the base of 1944. Another advantage in adopting 1944 as the base year would be that by that date, owing to different rates of increase in the index figures in the different parts of India (Bombay 150 to 226, Sholapur 155 to 276, Kanpur 181 to 314, Nagpur 165 to 267, Madras 136 to 207), there was a closer approximation in the actual costs of living than before, so that differences in dearness allowance at different places, when calculated on the subsequent index figures, are not likely to be so marked as they would be if the base year be taken as 1942. Besides, we have no sufficient data for converting the index figures for the 15 towns which are being published with base 1944 = 100 to the base of 1942. It may be said that the cost of living in 1944 was comparatively high and was removed from the present day's cost of living by less than 100,

and that, therefore, it is not safe to adopt such a year as the base, for if the cost of living goes down appreciably, as happened during the slump years at the end of the third decade of this century, the scales of pay fixed on such a basis would create an embarrassing situation. In "A New Province for Law and Order" (1922) Mr. Justice Higgins has stated, "It has to be admitted that the awards, in nearly all cases, have been made in a period when the cost of living is rising and that, therefore, they have generally increased the existing minimum rate.....What will happen if the cost of living should decrease—if the minimum for the basic or living wage shall have to be lowered? It is a fair question, but it is for the future to give the answer. I wish to confine my words to my personal experience. Yet there have been cases in which the Court has refused increases or has actually decreased the minimum rates, and the employees have listened to the reasons and loyally submitted". It has not been argued before us that the index figures are likely to take a steeply downwards course in the near future. The rise since 1944 has been nothing like that between 1942 and 1944, its tempo having already slowed down noticeably. That being the situation, to take as the base a year six years before the present date may not be too rash or unsound. If further support to our conclusion that we should take 1944 as the base year be required, we may point out that Rajadhyaksha J., in his award regarding the Posts and Telegraphs Department of the Central Government based his recommendations on calculations founded on figures relating to 1945 and that the Central Pay Commission recommended that the dearness allowance should commence only from the index figure 180. We, therefore, think that it would be best, on the whole, to take 1944, as the base year for the purpose of devising the pay scales. That would also involve less laborious mathematical operations than taking 1942 as the base year for the purpose of adjusting the cost of living index numbers as published in the *Indian Labour Gazette;* for those for the towns of Delhi, Ajmer, Jamshedpur, Jharia, Dehri-on-Sone, Monghyr and Jamalpur, Cuttack, Berhampur, Gauhati, Silchar, Tinsukhia, Ludhiana, Akola, Jubbulpore and Kharagpur are now being published with 1944 as the base year. The case of Calcutta, for which no cost of living figures are published in the *Indian Labour Gazette,* presents a difficulty. Cost of living index figures for the working class, however, are being published in the Monthly Abstract of Statistics by the Government of India, with a base of August 1939 = 100 for Calcutta. Unfortunately, that table gives no figures for 1944, but we have ascertained that the average cost of living ("general") figure for Calcutta for that year was 279. The Monthly Abstract of Statistics, therefore, should be followed in the case of Calcutta with this addition. As regards the towns of Bombay, Ahmedabad, Sholapur, Jalgaon, Kanpur, Nagpur, Madras and Calcutta for which index figures with base August 1939 = 100 are being published, the said figures can be converted to a 1944 base by multiplying them by the following co-efficients:

Bombay:	$\frac{100}{226}$	or	.44
Ahmedabad:	$\frac{100}{290}$	or	.34
Sholapur:	$\frac{100}{276}$	or	.36

Jalgaon :	100	or	.34
	295		
Kanpur :	100	or	.32
	314		
Nagpur :	100	or	.37
	267		
Madras :	100	or	.48
	207		
Calcutta :	100	or	.36
	279		

59. In referring to the cost of living index figures we have been obliged to make use of the figures published in respect of the working class cost of living. It has been taken for granted in previous enquiries and awards that roughly speaking the cost of living for a middle class earner is 80 per cent above that required by a corresponding working class earner. Besides the series of index figures we have been dealing with hardly any other kind of index figures are available at present. We have, accordingly, felt justified in basing our calculations and conclusions on the published tables of working class cost of living index figures.

SECTION II

Existing Awards and Scales of Pay

60. We now proceed to consider the important question of scales of pay. We shall first take up the subject of the pay of the clerical staff of the banks concerned. The first important award that dealt with the salaries of employees belonging to the middle classes was Mr. Justice Rajadhyaksha's award on the dispute between the Posts and Telegraphs Department of the Government of India and its non-gazetted employees. That award was made in July 1946 and was based on the requirements of the employees concerned during the year 1945. Mr. Justice Rajadhyaksha adopted the suggestion made by Mr. S. R. Deshpande, Director of the Central Government scheme for preparing cost of living indices for India, that the lower middle class family budgets should be correlated with the working class family budgets by the application of a co-efficient, *viz.*, 80 per cent of the requirements of a working class family to be added thereto for arriving at the requirements of a middle class family consisting of 3 consumption units. He arrived at the conclusion, by the application of the said co-efficient, that the cost of living for such a family was between Rs. 120 and 125 per month in Bombay and Calcutta and between Rs. 105 and 100 in urban and rural areas. This conclusion was based *inter alia* on the findings of the Rau Court of Enquiry that in 1939 a working class family needed not less than Rs. 35 per month in Bombay and places near Bombay, Rs. 30 per month in urban areas outside Bombay and Rs. 25 per month in rural or semi-rural areas.

61. Mr. B. B. Singh, I.C.S., Labour Commissioner of the United Provinces, made an award in respect of 40 banks in the said province on March 11, 1947.

He classified the banks into three classes, A, B and C and laid down the following scales for the clerical staff :

'A' class banks :

(1) Upper grade (for graduates) : Rs. 75—5—120—E.B.—8—200 ;
(2) Lower grade (for under-graduates) : Rs. 60—4—100—E.B.—5—150 ;
(3) Head clerks, supervisors and departmental-in-charges : Rs. 120—8—200—10—300.

'B' class banks :

(1) Upper grade (for graduates) : Rs. 60—4—100—E.B.—5—150 ;
(2) Lower grade (for under-graduates) : Rs. 60—3—90—4—100 ;
(3) Head clerks, etc. : Rs. 75—5—120—8—200.

'C' class banks :

(1) Upper grade (for graduates) : Rs. 60—3—90—4—110 ;
(2) Lower grade (for under-graduates) : Rs. 50—2—60—3—75 ;
(3) Head clerks, etc. : Rs. 75—5—120—6—150.

The learned adjudicator also awarded dearness allowance at the following rates :

'A' class banks :—30 per cent of basic salary with a minimum of Rs. 25 and a maximum of Rs. 50 per mensem.

'B' class banks :—25 per cent of basic salary with a minimum of Rs. 20 and a maximum of Rs. 37-8 per mensem.

'C' class banks :—25 per cent of basic salary with a minimum of Rs. 18 and a maximum of Rs. 27-8 per mensem.

62. Mr. Justice Divatia made an award regarding thirty banks in Bombay on the 8th April 1947. He divided the banks into two classes, big and small, following a suggestion made by the Reserve Bank of India,—banks which had working funds of 15 crores and above being placed in the category of big banks and those having less than 15 crores as working funds being classified as small banks. The scales of pay fixed for the big banks was as under :

Rs. 65—5—85—7½—130—E.B.—7½—160—10—190—E.B.—10—230—E.B.—15—275 ;

The scale of pay for the small banks was :

Rs. 55—4—63—5—78—6—102—E.B.—8—150—E.B.—10—200—E.B.—12—236—250.

The dearness allowance was fixed for the big banks at 25 per cent of salaries with Rs. 30 as minimum and Rs. 50 as maximum and for the small banks at 20 per cent of the salaries with Rs. 25 as the minimum and Rs. 35 as the maximum. By a subsequent award a similar adjudication was made with regard to certain banks at Ahmedabad.

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63. On the 30th April 1947 the Central Pay Commission signed their Report. They suggested a large number of scales for the clerical class (Class III) of Government employees, the first five of which are given below:

(*a*) Rs. 55—3—85—E.B.—4—125—5—130,
(*b*) Rs. 60—5/2—75,
(*c*) Rs. 60—4—120—E.B.—5—170,
(*d*) Rs. 75—3—105,
(*e*) Rs. 80—5—120—E.B.—8—200—10/2—220.

As regards the dearness allowance they provided a table showing the rates of dearness allowance recommended for different income groups according to every increase of 20 points in the cost of living index figures. They further suggested that when the index number went below 180, dearness allowance should cease but that at that stage the sums of Rs. 5 and Rs. 10 should be added to the basic pay of the two lowest income groups. They further recommended the grant of a housing or house rent allowance on the following scale:

Pay of Officers	Cities with population over 1 lakh.	Cities with population over 5 lakhs.	Bombay and Calcutta.
	Rs.	Rs.	Rs.
Below Rs. 55	5	7	10
Rs. 55 to 100	7	10	15
Rs. 101 to 250	..	15	20
Over Rs. 250	..	7½ per cent of pay	10 per cent of pay

They also recommended local or compensatory allowance at the following rates for employees serving in Bombay and Calcutta and suggested "that Government should make a review of conditions prevailing in other specially costly cities and decide to what extent similar benefits must be extended to staff serving in those cities".

For Bombay and Calcutta:

Pay not exceeding: Rs.	Amount of allowance Rs. as. p.
35	5 0 0
35—60	7 8 0
61—80	10 0 0
81—140	12 8 0
141—200	15 0 0
201—300	17 8 0
301—500	20 0 0

The Commission observed:

> ".....Rs. 55 and 90 would seem to represent a reasonable living wage for a working class family and a middle class family respectively, at a cost of living index of about 260. It must be remembered that the estimates of minimum requirements above referred to relate to a period when the employee may be reasonably expected to have at least two children to support besides his wife. This will roughly be about the seventh or eighth year of his service even according to Indian conditions. As we are providing for an incremental scale in nearly all cases, an employee who *starts* with a total income (including dearness allowance) of Rs. 55 (or Rs. 90 in a middle class family) would, in fact, be receiving an additional remuneration by the time he reaches the seventh or eighth year of his service" 2.

2. Pages 32 and 33 of their Report.

64. Mr. R. Gupta, I.C.S., made an award regarding the Imperial Bank of India which was published by the Government of West Bengal on the 4th August 1947. The principal scales for the clerical staff were :

Grade II (Junior scale) : Rs. 70—4—126—E.B.—130—5—175.

Grade I (Senior scale) : Rs. 100—8—180—E.B.—10—250.

65. In 1948 Mr. S. C. Chakravarty, in another award regarding the Imperial Bank of India, awarded dearness allowance at 40 per cent, of the basic salary, subject to a minimum of Rs. 50 for the clerical staff.

66. In December 1947 the Government of West Bengal published an award given by Mr. S. K. Sen regarding the Calcutta Branches of the Central Bank of India, Limited, in which he followed the Divatia award except that the minimum dearness allowance was increased to 35 per mensem for the cleracil staff. The learned Adjudicator also allowed a house rent allowance at the following scale :

Where pay does not exceed Rs. 100—Rs. 15.

Where pay exceeds Rs. 100 but not Rs. 200—Rs. 20.

Where pay exceeds Rs. 200—10 per cent of the pay.

67. In another award, published by the Government of West Bengal in August 1948 Mr. P. R. Mukherji fixed the scales of pay for the clerical staff of the Hindustan Commercial Bank as in the Divatia award, subject to a similar amendment of the minimum dearness allowance.

68. The following table compares the emoluments of an employee at the beginning of his service under the awards discussed above and the Pay Commissioner's Report :—

	Pay Rs.	Dearness allowance Rs.	House rent allowance Rs.	Compensatory allowance Rs.	Total Rs
Rajadhyaksha J's Postal and Telegraph award (1946).	..	..	..	..	120—125 (Calcutta and Bombay). 100—105 elsewhere.
Mr. B. B. Singh's award (1947).	75 60 50	25 20 18	.. .. ..	.. .. ..	68—100
Divatia award (1947)	65 55	30 25	.. ..	.. ..	95 80
Mr. Gupta's and Mr. Chakravarty's awards (1947—48).	70	50	..	..	120
Mr. Sen's award (1947)	65	35	15	..	115
Mr. Mukherji's award (1948)	65 55				100 90
		35	..	..	
Pay Commission's Report (1947).	55	35	15 10 7	7—8	97 to 112—8

69. These totals converted to the base year 1944 chosen by us would roughly yield the following results :

	Rs.
(1) Rajadhyaksha J's award (indices for Bombay and Sholapur)	110—115 (Calcutta and Bombay) 95—100 (elsewhere).
(2) Mr. B. B. Singh's award (indices for Kanpur)	56—83
(3) Divatia award (indices for Bombay)	81—68
(4) Mr. Gupta's and Mr. Chakravarty's awards (date taken 1947 : Indices for Calcutta).	108
(5) Mr. Sen's award (indices for Calcutta)	104
(6) Mr. Mukherji's award (indices for Calcutta)	82—74
(7) Pay Commission's Report (indices for Bombay and Cuttack)	83—96

70. It will have to be remembered that the figure given in (1) are based on working class minimum balanced budgets, (2) those in (4) and (5) relate to the Imperial Bank of India and the Central Bank respectively and those in (6) to a bank which belongs to class C. The Divatia award was terminated under the provisions of the Bombay Industrial Relations Act, 1946 by the employees of a number of banks, and certain banks, in view of the rising cost of living, raised the minimum limit of dearness allowance. It would be instructive also to see the amounts of starting salary and allowances granted by awards concerning commercial firms other than banks in different parts of India.

A few examples are given below :

Name of concern	Reference	Pay	D.A.	Other allowances.	Total
West Bengal—		Rs.	Rs.	Rs.	Rs.
Cotton Textile Industry in West Bengal.	Indian Labour Gazette September, 1948.	60 (Non-matriculates)	35	..	95
		70 (Matriculates)			105
Engineering Industry in West Bengal.	Indian Labour Gazette September, 1948.	55 (Non-matriculates)	35	..	90
		60 (Matriculates)			95
		70 (Graduates)			105
Gladstone Lyall and Co., Ltd.	Calcutta Gazette Extra, 24-4-1949.	70	55	..	125
Liverpool and London and Globe Insurance Co., Ltd., and allied concerns.	Gazette of India Extra. 6-9-1949, p. 1563.	70	55	..	125
Bombay—					
Bombay Gas Co., Ltd.	1948 I.C.R. (Bom.), p. 781.	75	50	..	125
Bombay Life Assurance Co., Ltd.	1949 I.C.R. (Bom.). p. 958.	75	40	..	115
British Insulated Callender's Cables, Ltd.	1949 I.C.R. (Bom.), p. 909.	75	63	..	138
Ford Motor Co. of India Ltd.	1948 I.C.R. (Bom.), p. 419.	75	Govt. or existing existing scale, whichever is greater.		
Greaves Cotton and Crompton Parkinson, Ltd. and allied concerns.	1948 I.C.R. (Bom.), p. 223.	75	Do		
		90 (Graduates)			

Name of concern	Reference	Pay	D.A.	Other allowances.	Total
		Rs.	Rs.	Rs.	Rs.
Indian Vegetables Products, Ltd.	1949 I.C.R. (Bom.), p. 661.	70	65	...	135
Premier Construction Co., Ltd., and allied concerns.	1949 I.C.R. (Bom.), p. 703.	75	40	..	115
Standard Vacuum Oil Co.	1948 I.C.R. (Bom.), p. 736.	75 60	As paid before		135
Tata Oil Mills Co., Ltd.	Bombay Govt. Gazette, dated 8-12-1949, pp. 2095—2162.	75	63	..	138
United Motors (India), Ltd.	1949 I.C.R. (Bom.), p. 253.	70	Existing D.A. [*plus* Rs. 8]		

71. It would be useful to give here some of the Government Secretariat rates of pay for a new entrant, as at least in the biggest banks the staff is recruited from the same sections of the community as in the Secretariats and one may reasonably expect the staff in both cases to have the same degrees of intelligence, education and efficiency and same standards of living and to be remunerated on almost similar scales.

Central Government Secretariat and attached offices.

	Pay	D.A.	Other allowances	Total
	Rs.	Rs.	Rs.	Rs.
Third Division clerk	55	45	7—8 *plus* 15	122—8

In the departments of Income-tax, Customs and Excise (Central) the lowest emoluments appear to be the same.

Bombay Government Secretariat and attached offices.

Lower Division clerk	75	45	..	120

West Bengal Government Secretariat.

Lower Division Assistant ..	80	35	9—8 to 13	124—8 to 128

Madras Government Secretariat.

Lower Division clerk	51	22	7	80

Madhya Pradesh Government Secretariat.

Lower Division clerk	50	30	1—8 extra D.A.	81—8

Assam Government Secretariat.

Lower Division clerk	75	15	6 (extra D.A.)	96

Bihar Government Secretariat.

Lower Division Assistant	75	30	4	109

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72. The Reserve Bank of India pays the following emoluments to a clerk in the first year of his service at Bombay :

Pay	D.A.	Compensatory allowance	Total
Rs.	Rs.	Rs.	Rs.
75	45	10	130

Most of the important banks are either bound by or have adopted one or other of the existing awards regarding banks. We give below the scales of emoluments at present being paid by some of the other banks to a clerk in the first year of his services :

	Name of Bank	Pay	D.A.	Other allowances	Total
		Rs.	Rs.	Rs.	Rs.
1.	Agricultural and Industrial Bank, Ltd., (Coondapoor)	25	25	..	50
2.	Andhra Bank, Ltd. (Madras)	40	30	Rs. 5 plus City allowance Rs. 10	85
3.	Bank of Bihar, Ltd. (Bihar)	50	35	..	85
4.	Bank of Maharashtra, Ltd. (Outside Bombay City)	40	35	..	75
5.	Bengal Central Bank, Ltd., (Delhi)	50	30	..	80
6.	Bharat Bank, Ltd. (Bihar)	50	20	..	70
7.	Bharata Lakshmi Bank, Ltd. (Madras City) ..	35	25	..	60
8.	Canara Bank, Ltd. (Belgaum, Dharwar, Erode) ..	50	..	5	55
9.	Comilla Banking Corporation, Ltd. (Calcutta) ..	50	25	..	75
10.	Habib Bank, Ltd., Madras	55	25	..	80
11.	Hind Bank, Ltd. (Bombay and Calcutta) ..	60	30	..	90
12.	Hindustan Commercial Bank, Ltd. (Bihar) ..	55	25	..	80
13.	Hindustan Mercantile Bank, Ltd. (Akola) ..	40	20	..	60
14.	Indian Bank, Ltd. (Madras)	50	35	..	85
15.	Indian Overseas Bank, Ltd. (Madras)	40	22—8	..	62—8
16.	National Savings Bank, Ltd. (Poona and Surat) ..	41	25	..	66
17.	New Citizen Bank of India, Ltd. (Poona, Sholapur and Nagpur).	45	25	..	70
18.	United Commercial Bank, Ltd. (Bihar)	60	30	..	90
19.	Vijaya Bank, Ltd. (Mangalore)	30	14	9	53

SECTION III

Minimum Basic Pay

73. A most difficult task before us is the ascertainment of the minimum salary of a clerk at the beginning of his career in the three areas I, II and III in terms of the base year 1944. In 1946 Mr. Justice Rajadhyaksha came to the conclusion, on the basis of working class minimum balanced budgets, that the cost of living of an average lower middle class family (with a monthly income between Rs. 75 and 125) at that date was between Rs. 120 and 125 in places like Calcutta and Bombay and between Rs. 100 and 105 in other urban and rural areas. This result was arrived at by the application of an 80% co-efficient, which was derived from the following mode of reasoning :

> "In 1922-24 there was a middle class family budget enquiry in Bombay and it was found that a family consisting of 4.58 persons spent Rs. 138-5-0 per month (See pages 31 and 34 of the Report). But the average expenditure of the middle class family in the lowest income group (having incomes between Rs. 75 and 125) per month was Rs. 103-4-0. In 1923 the cost of living index

figure was 155 whereas in 1938-39 it was 104. According to these index numbers the cost of living of the same family would be $\frac{103 \times 104}{155}$ — Rs. 69 in 1938-39. The lowest income group in the middle class budget enquiry consisted of 3.29 consumption units. Therefore for an average family of 3 consumption units, the expenditure required in 1938-39 would have been $\frac{69 \times 3}{3.29}$ — Rs. 63.

According to the finding of the Rau Court of Enquiry a working class family consisting of 3 consumption units required Rs. 35 for minimum subsistence. It follows therefore that the proportion of the relative cost of living of a working class family to that of a middle class family of 3 consumption units is 35 : 63, *i.e.*, the cost of living of a middle class family is about 80% higher than that of a working class family".[3]

It seems to us very likely, particularly in view of the increase in the income of the working classes in most towns since 1939, that the co-efficient applicable today is appreciably less than 80%. Mr. Justice Rajadhyaksha deplored the fact that there had been no official family budget enquires with respect to lower middle classes and that the non-official enquiries had not arrived at any dependable conclusions on the subject. It was this state of things that led him to adopt the co-efficient suggested by Mr. Deshpande. This Tribunal, however, is more fortunate in having before it the detailed results of Mr. Subramanian's investigation into budgets of middle class employees of the Central Government for the period November 1945 to August 1946. For practical purposes we think that we should be justified in regarding these results as pertaining of the year 1946.

74. In Mr. Justice Rajadhyaksha's award regarding the Posts and Telegraphs Department of the Central Government and Mr. Justice Divatia's award regarding banks in Bombay an average employee's family in the 8th year of service was taken to consist of 3 consumption units (1 unit for the head of the family, .8 unit for his wife and .6 unit for each of two children). Slightly higher figures are given in Mr. Subramanian's Report for Bombay for income groups having income below Rs. 100 per month (3.1 c. us) and between Rs. 100 and Rs. 150 (3.04 c. us); while the number of consumption units for the said group for Calcutta are given in that Report as 3.5 and 4.4 respectively and that for Delhi for the latter group is shown as 3. At pages 83, 60 and 128 and pages 78, 54 and 123 we find respectively the average monthly expenditure and the average value of monthly concessions for the lowest groups as follows :

	Average size of family in c. us	Average monthly expenditure	Average monthly concessions	Total
Income Group below Rs. 100				
Bombay	3.1	104-11	22-2	126-13
Calcutta	3.5	115-4	11-7	126-11
Income Group Rs. 100-150				
Bombay	3.4	189-4	24-1	213-5
Calcutta	4.76	166-12	13-14	180-10
Delhi	3.3	182-12	8-3	190-15

3. Rajadhyaksha J's award regarding the Posts and Telegraphs Department of the Central Government (1946), page 64.

In the first group the aggregate of the two totals is Rs. 253-8, and the aggregate of the consumption units per family in the two cities is 6.6. Thus for Bombay and Calcutta the average total monthly expenditure per consumption unit (including concessions) is Rs. 38-7. The corresponding figure for the second group (for the three cities is Rs. 51. It was contended that Mr. Subramanian's calculations for the lowest income group pertain *inter alia* to "a large body of clerical workers with a rather low basic salary (as low as Rs. 30 per month in some cases)".[4] But actually the minimum monthly incomes per family in the budgets investigated varied between Rs. 74 and Rs. 87 (leaving out Delhi),[5] such income being Rs. 82-11 at Calcutta and Rs. 74-1 at Bombay, and the lowest monthly income appearing in the budgets investigated for Delhi being Rs. 126-14. In view of the fact that no budget below Rs. 124-14 for forthcoming from Delhi and of the large extent of monthly deficit in the income group "below Rs. 100" (Rs. 32-9 at Calcutta, Rs. 30-10 at Bombay), it is probable, as was suggested in the Posts and Telegraphs award, that there has been a deterioration of the pre-war standrad of living. In fact, as a reference to Tables XI and XII at pages 18 of Shri Subramanian's Report shows, the middle class, as a class, appears to be in debt to a surprising extent at every stage of income level except in the highest income-groups (Rs. 300 and above) at Madras and Delhi and in the States of Bengal, Assam, Madras and Madhya Pradesh where either the budgets are just balanced or a small saving is possible. In the cities of Bombay and Calcutta 78 and 77 per cent of the budgets examined (400 and 664) respectively showed deficits the monthly deficit per family (for all income groups) being given respectively as Rs. 41-6 and Rs. 46-5.

75. In view of these considerations we think that we should be justified in coming to the conclusions (1) that the figures of actual expenditure given by Mr. Subramanian can be used as a basis for a subsistence level of wages and (2) that the monthly requirements of a lower middle class employee at Bombay, Calcutta or Delhi (for 1946) would be something higher than the figure of Rs. 38-7 arrived at above, say, Rs. 40 per consumption unit. This corresponds with the lowest figure for Bombay and Calcutta arrived at by Mr. Justice Rajadhyaksha for three units, *viz.*, Rs. 120 as the requirement of a lower middle class family (consisting of 3 consumption units) in 1946. Mr. Justice Divatia held that the lowest total emoluments for an employee of a small bank should be Rs. 80 (Rs. 55 *plus* dearness allowance Rs. 25), but he did not seem to think that any differentiation between 1946 and 1947 was necessary though the cost of living index figure had gone up from 246 to 265, *i.e.*, by about 8%. If Rs. 40 represented the requirements of one consumption unit the Divatia award porvided for two consumption units in the case of a new entrant.

76. We adhere to the two conclusions given above, in spite of the argument addressed to us on behalf of certain banks that certain "Miscellaneous" items of expenditure included in Mr. Subramanian's statistics do not normally enter into the conventional concept of the subsistence level, *e.g.*, children's education, religious ceremonies, newspapers, entertainments, club subscriptions, holiday expenses, remittances to dependents, provident fund, life insurance, taxes, maintenance of own conveyance, debt disbursement, pansupari, cigarettes and tobacco. Items like life insurance and provident fund, it was further argued, should not have been grouped under expenditure, being forms of savings. It has, however, to be remembered that the subsistence standard of pay, for a middle class worker,

4. Report on an Enquiry into the Family Budgets of Middle Class Employees of the Central Government, 1949, p. (iii).

5. *Ibid*, pp. 49, 73, 97, 141, 173, 195, 217, 249, 273 and 295.

cannot and should not mean, as perhaps in the case of the working class, merely such pay as would suffice to keep body and soul together, *i.e.*, provide only for food, clothing, fuel and house-rent; that the subsistence level must have reference to the minimum requirements regarding such items as enter normally and essentially into the workers' standard of living; that the expenditure shown against such items as have been objected to are exceedingly meagre; and that the fact that an employee is compelled, month after month, to incur a fairly heavy deficit, far from showing that he is indulging in extravagance or improvidence, rather suggests a sub-subsistence level of existence, if such a phrase may be used, compelling him not only to live beyond his means but also, in all probability to exhaust his other resources, if any. As to the items of life insurance and provident fund, they no doubt represent saving, but such saving as the employee is compelled to effect in the interests of his family and himself, and as he cannot draw upon for purposes of normal expenditure. The amounts in question having in the first instance to come out of his pocket they have rightly, in our opinion, been included in estimating his expenditure.

77. In our award regarding interim relief for the State of Madras we observed, "A new entrant, particularly in these times, is rarely burdened with a family at the date of his joining service, and the contingency of his having a dependent or two would, in our opinion, be sufficiently met by presuming that such a person has to bear the expenditure of two consumption units".[6] The employees' advocates and representatives have contended that this would not be a fair way of looking at the question of starting pay and that even a new entrant should be presumed to have three consumption units to maintain. It may be mentioned that the conclusion arrived at in the said interim award was a tentative one, reached without hearing any detailed arguments on the point and without intending to affect our final decision. The point is an important one and may affect the method of fixing the initial pay in other industries also. It may be noted that even in the Madras interim relief award it was stated, "With regard to certain items the cost in the case of two consumption units living together would be proportionately more than in the case of a larger family". An employee, at the beginning of his career, is in the income group "below Rs.100" and in the eighth year he would be in the income group "Rs. 100 to Rs. 150". If he is allowed in the beginning two consumption units according to the standard of the first group and in the eighth year to three consumption units according to that of the second group, the difference becomes much greater than in any of the existing systems of scale-pay that have been brought to our notice. In a large majority of cases the pay for the first year is more than two-thirds of the pay for the eighth year, *i.e.*, more than the employee would get for two consumption units calculated at the standard of the eighth year. A few examples are given below:

	1st year pay Rs.	8th year pay Rs.
Central Government Secretariat	55	76
Bombay Government Secretariat	75	110
Engineering Industry in West Bengal (Award in Indian Labour Gazette, September 1948) .. .. (*i*) ..	55	72-8
(*ii*) ..	60	77-8
(*iii*) ..	70	98
Standard Vacuum Oil Co., 1948 I.C.R. (Bom.) p. 736	75	110
Premier Construction Co. and allied concerns, 1949, I.C.R. (Bom.) p. 703	75	112
British Insulated Calenders' Cables Ltd., 1949, I.C.R. (Bom.) p. 909 ..	75	110
Imperial Bank of India (Mr. Gupta's award)	70	98
Pay Commission's Report [p. 42, scale (a)]	55	76

6. Ministry of Labour's Notification No. LR-2(258)/III, dated the 26th December 1949, published in the *Gazette of India*, Part I, Section I, dated the 31st December 1949, pp. 1790-1793.

78. In the Divatia award, however, the initial pay (Rs. 65 for big banks and Rs. 55 for small banks) is less than two-third of the pay in the eighth year (Rs. 107-8 and 90 respectively). This might appear to indicate that the initial pay fixed in that award was hardly adequate. It seems to us that ordinarily it would not be appropriate to fix an initial pay which is less than two-third of the pay provided for the eighth year; so that where, as in the present case, we can estimate the requirement of one consumption unit from the requirements of a family within the income group of the employee concerned, and he is likely to belong to a higher income group in the eighth year of his service, his requirement in the first year of his service should be something more than that of two consumption units. Without intending to lay down a rule or formulate a definite principle we believe that we are not likely to be much mistaken if we take that requirement as that which would correspond to 2.25 consumption units. On the basis of Rs. 40 per month (in 1946) per consumption unit for a lower middle class employee at Calcutta, Bombay or Delhi, he would require Rs. 90 in the first year of his service.

79. In a subsequent part of this award we intend giving directions as to item 14 (medical aid and expenses) in Schedule II, but we shall not be able to direct under the said item that such relief should be given to all members of a workman's family. We have considered the question whether we should deduct, on this account, what he is shown in Mr. Subramanian's Report to be spending on medical aid and expenses so far as he himself is concerned; and we have decided to make no such deduction. For one thing, the amount so spent would be trifling, between Re. 1 and Rs. 2 per month; for another, an employee of the Central Government, as well as the members of his family, are entitled to free medical attendance and treatment free of charge at hospitals, and inspite of such facilities Central Government employees have been shown to have incurred expenditure on account of medical aid.

80. We shall now proceed to ascertain the minimum requirements of an employee working in a class II area at the commencement of his service. Of the towns which in our judgment should be comprised in class II areas, we think that if we take Sholapur, Kanpur, Nagpur and Jamshedpur we may be said to have made a sufficiently representative selection for our purpose, bearing in mind the limitation imposed on our choice by the towns regarding which the Central Government have been publishing cost of living index figures. The regions in which they are situated are shown respectively in Mr. Subramanian's Report as Bombay Province, United Provinces, C.P. and C.I. and Bihar and Orissa. The total monthly expenditure per consumption unit in an average family in the income group "below 100", is Rs. 29-0, Rs. 26-13, Rs. 27-1 and Rs. 30-8 respectively, yielding an average of Rs. 28-6. To this amount must be added the average of the values of concessions which yield the total of Rs. 50-6 and 17.5 consumption units or Rs. 2-14 per consumption unit. The total average per consumption unit comes, therefore, to Rs. 31-4. In view of the considerations as to the subsistence level already referred to and the fact that though we want to find a clerk's requirements in a number of fairly large towns the statistics we have been obliged to examine are all of the large areas as a whole and not of towns, we think that we should be justified in taking the monthly requirement of one consumption unit for the income group "below Rs. 100" as Rs. 34. A new entrant would then require in 1946 Rs. 34 x 2.25 or about Rs. 77.

81. Class III areas comprise very large tracts and we think that similar calculations are not likely to yield satisfactory results. We are of opinion that for such areas the minimum of Rs. 65 per month may be taken to represent the requirement of a clerk in such areas for the year 1946.

SECTION IV

Scales of Pay

82. It is now necessary that we should ascertain the requirements of a middle class employee, in the areas I, II and III, in the eighth and the final years of his service. The eighth year of service has generally been taken to be the period in which an employee has to maintain three consumption units. As to the span of service, Divatia J in his award fixed a span of 25 years of service at the end of which the maximum pay is attained. The average employee in a bank usually begins his service at the age of 18 to 20 years, so that in his 25th year of service he would be 43 to 45 years of age. Most employees in the clerical staff, we understand, remain in service till their 55th year, so that normally, if the span of the pay scale be 25 years, they would remain on the same pay for the last 10 to 12 years of their service. It is, however, difficult to find any pay-scale in this country extending over a span of more than 25 years; and it is to be also borne in mind that there are selection posts and officers' grades to which the more competent among the elder clerks may reasonably aspire. We, therefore, do not think it necessary to extend the pay scale span beyond 25 years.

83. In the twenty-fifth year of his service an employee would be a member of the income group Rs. 250—300. The number of consumption units in a family per earner in this group is given in Mr. Subramanian's Report as 3.06 at Bombay, 5.5 at Calcutta, 3.55 at Delhi and 4.8 at Madras, giving an average of 4.23. But we think that on the whole it would be legitimate to allow for 4 consumption units (equivalent to two male and one female adults and two minor children in a family of five persons) at the 25th year of service.

84. Now as regards the requirement of an employee in the eighth year of his service in a class I area, he would then be a member of the income-group Rs. 100—150. It has already been found that for Calcutta, Bombay and Delhi the average total monthly expenditure per consumption unit (including concessions) was Rs. 51 in 1946. The monthly requirement on this basis works out at Rs. 153.

85. In the twenty-fifth year of his service an employee would be a member of the income group Rs. 250—300. The following figures from Mr. Subramanian's Report regarding this income group in class I areas are relevant:

Cities	No. of c. us. in average family.	Average monthly expenditure.	Average monthly concessions.	Total
		Rs. as.	Rs. as.	Rs. as.
Calcutta	6.61	327 11	11 2	338 13
Bombay	3.9	306 10	29 10	336 4
Delhi	3.6	299 6	6 0	305 6
Total	14.11			980 7

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The average total monthly expenditure per consumption unit works out at Rs. 69 = 8.

As we have held above that we can legitimately hold that the employee, towards the end of his service, would have 4 consumption units to maintain his monthly requirement, in 1946, would be Rs. 69 = 8 × 4 or Rs. 278.

86. We thus arrive at the following figures of the minimum requirements of a clerk in 1946:

	1st year (2.25 c.us.)	8th year (3 c.us.)	25th year (4 c.us.)
	Rs.	Rs.	Rs.
Class I Areas	90	153	278
Class II Areas	77	..	..
Class III Areas	65	..	..

In the above table the figure 153 appears to be open to this criticism. Rs. 90, the pay for a new entrant in class I areas, is appreciably below two-thirds of Rs. 153; and the covering of the difference between Rs. 153 and Rs. 90, *i.e.*, Rs. 63 in 7 years means an average annual increment of Rs. 9, *prima facie* an excessive figure. The difference between Rs. 278 and Rs. 153, *i.e.*, Rs. 125 if covered in 17 years, gives a smaller average annual increment. This cannot be right; increments should ordinarily rise with the length of the years of service. We are, therefore, inclined to regard the view that an employee has to maintain three consumption units in the eighth year of his service as one that fails to conform to the requirements of a normal scale of pay, at least in the case of middle class employees, circumstanced as they are today. It is likely that under the stress of circumstances a large number of middle class employees are unable to marry early enough in life to have two children in the eighth year of their service—the assumption underlying the theory of three consumption units in that year; or there may be other explanations of this anomaly. It would be best, therefore, in our opinion, to take only the initial and the final figures of requirements and to construct scales of pay on such basis.

87. We have now to convert the figures Rs. 90, Rs. 278, Rs.77 and Rs. 65 to the base year 1944. We first take the two figures for Area I. The index number for Delhi was 107 with base 1944 = 100 and that for Bombay with the same base would be 109. In Calcutta there was a fall in the cost of living from 1944 (index figure 278) to 1946 (index figure 275); its index figure for 1946 with base 1944 = 100 would be 99. The average of the three figures 107, 109 and 99 is 105. Therefore, in order that the pay appropriate to 1946 may be converted to the 1944 base it would have to be multiplied by the co-efficient $\frac{100}{105}$ or $\frac{20}{21}$. This process would give the following scale of requirements (for 1944) of a clerk in a bank of class C in class I areas:

	Rs.
1st year	86
25th year	265

88. For converting the figure Rs. 77 (Areas II) to the base year 1944 we take the index figures for Sholapur, Kanpur, Nagpur and Jamshedpur for 1944 and 1946; they were respectively, 276, 314, 267 and 100 (total 957) in 1944 and 290, 328, 285 and 103 (total 1006) in 1946. We have thus to multiply Rs. 77 by $\frac{957}{1006}$ or roughly $\frac{19}{20}$ by which process we get Rs. 73 as the monthly requirement in Area II in 1944. For Areas III also we may reduce the 1946 figure Rs. 65 by about 5% and thus get Rs. 62 as the monthly requirement in Area III in 1944.

89. It would be possible to ascertain roughly, largely on the basis of such calculations as made above, the requirements of such an employee in class II areas in the twenty-fifth year of his service. We are, however, of opinion that reasonably reliable results can be attained by the easier method of keeping the same proportion between the requirements in the twenty-fifth year in the three areas on the basis of the proportion that obtain in the requirements for the first year of service. Such a procedure would no doubt presuppose (1) that in all the three areas the ratios between the number of consumption units at the two stages are the same and (2) that the ratios of increase in the requirements per consumption unit at those stages are also the same throughout the country. We do not think that these two propositions are so opposed to reality as to render our conclusions illegitimate or invalid.

90. We thus arrive at the following figures of the requirements of a clerk in a bank of class C :

	1st year	25th year
	Rs.	Rs.
Class I Areas	.86	265
Class II Areas	73	225
Class III Areas	.62	191

On the basis of these figures the scales of pay for clerks serving in banks of class C will have to be constructed.

91. We next take up the question of pay scales for banks of classes A and B. In the Divatia award there is a difference of ten rupees between the lowest pay for a clerk in a big bank and that in a small bank, and there is a difference of Rs. 25 between the corresponding amounts of pay in the case of a clerk at the end of his service. We think that these differentials between the highest and the lowest categories of banks in class I areas may be taken as adequate, though it may be argued that they are on the low side, as in a place like Bombay and Calcutta the difference between a subsistence level wage and a wage sufficient to ensure an appreciable amount of comfort and decent living must be, even for 2.25 consumption units, more than ten rupees a month. There would be comparatively large differences in the scales even for C class banks in the three classes of areas, and the introduction of more accentuated differences between the scales applicable to the different classes of banks in each class of areas would be greatly disliked by the employees. Owing to the differences in the costs of living in the three classes of areas we have been obliged to show the differences in question in the pay scales of C class banks ; in the other cases we think that we need not go beyond the limits set by Mr. Justice Divatia to the differences between the highest and the lowest scales of pay. We fix the differentials in the three classes of areas for the banks in classes A and B for the first and the twenty-fifth year of service, as compared with the scales of pay in class C, as follows :

Years of Service	Class I Areas		Class II Areas		Class III Areas	
	Class A banks	Class B banks	Class A banks	Class B banks	Class A banks	Class B banks
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1st year	10	6	9	5	8	4
25th year	25	20	23	18	21	16

We, therefore, fix the following limits of the scales of pay applicable to clerks serving in banks of classes A and B:

	Class I areas	Class II areas	Class III areas
	Rs.	Rs.	Rs.
Class A—			
1st year	96	82	70
25th year	290	248	212
Class B—			
1st year	92	78	66
25th year	285	243	207

92. We shall now proceed to construct the nine pay scales. In doing so we shall observe two principles, namely, that increments should normally show a rising trend and that a time scale should provide for a saving wage after the fifteenth year of service[7].

Class 'A' Banks—

Class I	areas	Rs. 96	6	132	7	174	8	190	205	9	250	10	290
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		
Class II	areas	Rs. 82	5	112	6	148	7	162	172	8	212	9	248
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		
Class III	areas	Rs. 70	4	94	5	124	6	136	145	7	180	8	212
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		

Class 'B' Banks—

Class I	areas	Rs. 92	6	128	7	170	8	186	200	9	245	10	285
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		
Class II	areas	Rs. 78	5	108	6	144	7	158	167	8	207	9	243
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		
Class III	areas	Rs. 66	4	90	5	120	6	132	140	7	175	8	207
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		

Class 'C' Banks—

Class I	areas	Rs. 86	5	116	6	152	7	166	180	9	225	10	265
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		
Class II	areas	Rs. 73	5	103	6	139	6½	152	160	7	195	7½	225
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		
Class III	areas	Rs. 62	4	86	5	116	5½	127	135	6	165	6½	191
		(6 yrs.)		(6 yrs.)		(2 yrs.)		(1 yr.)	(5 yrs.)		(4 yrs.)		

SECTION V

Uniform Basic Scales

93. One part of item 1 in Schedule II is, "whether, if basic scales are recommended, such scales of pay of particular categories should be uniform all over India and whether the differences in the cost of living of the various centres,

7. Report of the Central Pay Commission (1947), p. 37.

should be adjusted by the grant of compensatory allowances." We are in sympathy with the point of view which has given rise to this question, but we think that if we are to give effect to it, it would not be sufficient to make up differences merely by the grant of compensatory allowances. If we are to take the scales of pay prescribed for class C banks in class III areas as the basic for the whole of India, we would have to add to it, for other classes of banks, and areas, two classes of allowances, namely, (1) basic allowances showing the differences between the scales for class C banks in class III areas on the one hand and on the other those for B and A classes of banks for the same areas and (2) compensatory allowances for each class of banks to compensate for higher costs of living in class I and class II areas. We think that such a procedure would needlessly complicate the scheme of pay scales we have laid down and that it would further render difficult any reference to such scales without raising doubts whether the basic scales for the whole of India, with or without the basic and compensatory allowances, was intended. We are, therefore, of opinion that the question raised must be answered in the negative; and it is our intention that any stage in the pay scales fixed by us should be referred to as the basic pay.

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CHAPTER V

Scale of Pay—Subordinate Staff.

94. It now remains for us to fix the scales of pay of the subordinate (non-clerical) staff. Mr. B. B. Singh fixed the scales for forty banks in the United Provinces as follows:

	Rs.
Class 'A' banks	25—1—35
Class 'B' banks	25—½—30
Class 'C' banks	20—½—25

Mr. Justice Divatia fixed the scale of Rs. 30—2—50—1—65 for the big Bombay banks with the proviso that chokras below 18 should get a start of Rs. 25 till they attained such age. For the small banks he laid down the scale of Rs. 24—1—35—2—55 with the proviso that chokras should start on Rs. 19. Mr. R. Gupta fixed several scales for different categories of the subordinate staff of the Imperial Bank of India, *e.g.*, messengers, cash coolies, sweepers, farashes, head messengers, head cash coolies, malis, punkha pullers, lorry drivers, duftries, record suppliers, compositors, the lowest scale (for farashes, sweepers, cash coolies, etc.) being Rs. 30—2—60 and the highest (for lorry drivers and head messengers in Calcutta) Rs. 70—3—100.

95. The Central Pay Commission recommended three scales for employees comprised in Class IV, namely, Rs. 30—½—35, Rs. 35—1—50, and Rs. 40—1—50—2—60, the second and the third scales being intended for semi-skilled and skilled workers according to the nature of their job and the extent of their skill. In the Central Government Secretariat two scales or grades exist, namely, Rs. 30—½—35 (for peons, etc.) and Rs. 35—1—50 (for jamadars and daftries). In the Bombay Secretariat there are three scales or grades: Rs. 35—½—40 (for peons and messengers), Rs. 40—1—50 (for naiks) and Rs. 50—1—55 (for havildars); and in the mofussil in the State of Bombay, the scales are: Rs. 30—½—35 (for peons), Rs. 35—1—45 (for naiks) and Rs. 45—1—50 (for havildars), boy peons being paid Rs. 25. In other States the scales are lower, the peons' scale beginning with Rs. 22-8-0 in Bihar, Rs. 20 in West Bengal, Rs. 18 in Madras, Rs. 20 in Madhya Pradesh and Punjab (India), Rs. 18 in Orissa and Rs. 22 in Assam. We give below the effect of certain awards regarding industrial concerns:

Name		*Pay Scale* Rs.
Bombay—		
Bombay Gas Company, Ltd. 1	Chokras	25—1—30.
	Peons and hamals	30—2—50—1—60.
British Insulated Callender's Cables, Ltd. 2	Sepoys	30—1½—36—E.B.—2—50—3—60.
Caltex (India), Ltd. 3	Sepoys	30—2—50—1—65.
Greaves Cotton and Crompton Parkinson and allied concerns 4	Sepoys	35—1—45—2—55.
	Hamals and sweepers	35—1—45.

1. 1948 I.C.R. (Bom.), p. 781.
2. 1949 I.C.R. (Bom.), p. 909.
3. *Ibid.*, p. 510.
4. 1948 I.C.R. (Bom.), p. 223.

Name		Pay Scale Rs.
Bombay—contd.		
Oriental Government Security Life Assurance Co., Ltd. 5	Sepoys, hamals and watchmen.	30—2—60.
	Sweepers	30—1—45.
	Naiks, mukadams ..	42—2—64.
	Havildar	48—3—75.
Premier Construction Co., Ltd., and allied concerns. 6	Peons, watchmen and hamals.	30—2—60.
	Sweepers	30—1—50.
Standard Vacuum Oil Co. 7	Peons and watchmen ..	30—2—44—E.B.—3—65
	Sweepers and cleaners ...	30—2—50.
United Motors (India), Ltd. 8	Peons	35—1—40.
	Peons in showrooms. ..	30—1—50.
Madras—		
Municipal Corporation, Madras		20—1—25.
West Bengal—		
Gladstone Lyall & Co., Ltd. 9		40—1—60.
		35—1—50.
		30—1—40.
Engineering Industry in West Bengal 10 ..	Peons	25—1—40.
	Darwans	30—1—45.

In order to get a total picture of the emoluments one has to look at the dearness allowance in each case, which does not appear to have been fixed with reference to any particular basic year or to bear the same proportion to the basic pay as the corresponding dearness allowance of a clerk working in the same office bears to his basic pay. The total monthly emoluments in the initial year vary, under the awards of Mr. Singh, Mr. Gupta and Divatia J, between Rs. 36 and Rs. 55; such emoluments according to the Central Pay Commissioner's Report, the Central Secretariat scale and the Bombay Secretariat scale would respectively be Rs. 70, 80 and 76 and under the scales obtaining elsewhere in the State of Bombay vary between Rs. 65 and 70 and elsewhere in India fall to as low a figure as Rs. 36. Such emoluments, in accordance with some awards relating to commercial firms and the Municipal Corporation, Madras (referred to above), would vary between Rs. 44 and Rs. 95.

96. We have in connexion with this question examined eighteen of the reports prepared by Mr. S. R. Deshpande, Director, Cost of Living Index Scheme, under the Ministry of Labour of the Central Government, based on inquiries into family budgets of industrial workers at twenty places in different parts of India; Bombay, Ahmedabad, Sholapur, Jalgaon in the State of Bombay, Howrah and Bally and Kharagpur in the State of West Bengal, Jharia, Jamshedpur, Monghyr and Jamalapur and Dehri-on-sone in the State of Bihar, Ludhiana in the State of Punjab (India), Gauhati and Tinsukia in the State of Assam, Jubbulpur and Akola in the State of Madhya Pradesh, Cuttack and Berhampur in the State of Orissa, and the city of Delhi. Most of the inquiries were conducted in 1944 or as near 1944 as would make the result valid, for all practical purposes, for that year, and in two or three cases where the inquiries were made in 1945 or largely in 1945 the results would differ very slightly

5. 1949 I.C.R. (Bom.), p. 563.
6. 1949 I.C.R. (Bom.), p. 703.
7. 1948 I.C.R. (Bom.), p. 736.
8. 1949 I.C.R. (Bom.), p. 253.
9. *Calcutta Gazette*, extra, April 22, 1949.
10. *Indian Labour Gazette*, September, 1948, p. 171.

from what they would have been had the inquiries been in 1944. We give below a statement prepared from the statistics embodied in Mr. Deshpande's Reports on such matters as are relevant to our present purpose :

States and Towns	Period of enquiry	Approximate figure at which balancing attained*	Number of consumption units	Requirements per consumption unit (figures within brackets are calculated to the nearest rupee).
		Rs.		Rs.
Bombay—				
Bombay	22-1-1944 to 28-2-1945.	75	2.65	28-4-9 (28/-)
Ahmedabad	22-1-1944 to 28-2-1945.	85	2.75	30-14-6 (31/-)
Sholapur	22-1-1944 to 28-2-1945.	154	7.36	20-14-9 (21/-)
Jalgaon	22-1-1944 to 21-1-1945.	62	4.93	12-9-2 (13/-)
West Bengal—				
Howrah and Bally	28-7-1943 to end of July 1944.	32 (per week)	6.09	5-4-0 (per week) : 22-8-0 (per month) (23/-).
Kharagpur	End of July 1943 to end of July 1944.	147	4.63	31-11-7 (32/-)
Bihar—				
Jharia	16-7-1945 to 25-11-1945.	8 (per week)	2.48	3-3-7 (per week) 13-3-1 (p.m.) (14/-)
Jamshedpur	February to June 1945.	35	2.24	15-10-0 (16/-)
Monghyr and Jamalpur	9-5-1944 to 31-10-1944.	96	6.26	15-5-4 (15/-)
Dehri-on-sone	7-11-1944 to 31-1-1945.	35	3.63	9-10-3 (10/-)
Punjab—				
Ludhiana	End of January 1944 to end of April 1945.	92	4.15	22-2-8 (22/-)
Assam—				
Gauhati	April 1944 to October 1945.	22	2.47	8-14-6 (9/-)
Tinsukia	Not mentioned.	30	2.64	11-5-9 (11/-)

* Including amounts spent on interest on loans, insurance premia and remittances to dependents, where available.

States and Towns	Period of enquiry	Approximate figure at which balancing attained	Number of consumption units	Requirements per consumption unit (figures within brackets are calculated to the nearest rupee).
		Rs.		Rs.
Madhya Pradesh—				
Jubbulpore	April 1944 to 1945.	85	4.37	19-7-2 (19/-)
Akola	April 1944 to April 1945.	45	2.90	15-8-3 (16/-)
Orissa—				
Cuttack	15-12-1944 to 15-8-1945.	95	5.98	15-8-9 (16/-)
Berhampur	15-12-1944 to 15-9-1945.	134	6.40	18-11-7 (21/-)
Delhi—				
Delhi	October 1948 to October 1944.	53	2.83	18-11-7 (19/-)

97. We have first to ascertain the basic requirement for class I areas. The requirements per consumption unit for Bombay, Howrah and Bally and Delhi are respectively Rs. 28, Rs. 23 and Rs. 19 per month. The figure for Delhi is somewhat low in view of the statistics to be found in Mr. Subramanian's enquiry on middle class employees of the Central Government. The reason is probably that Mr. Deshpande's enquiries were confined to seven working class localities only, but we do not know whether the members of the subordinate staff of banks at Delhi are also residents of the said localities. As Bally is close to Howrah and both are not far from Calcutta, we think we should be justified in taking the figure for Howrah and Bally as correct for Calcutta for which no enquiries appear so far to have been made. Taking the average of the three figures given above, we get Rs. 23 as representing the monthly requirement for one consumption unit in Class I areas. At the rate of 2.25 consumption units for a new entrant we get Rs. 52, which would represent the requirement of a workman in the subordinate services in the first year of his service in a class C bank in the said area.

98. For class II areas we take the requirement per consumption unit in the three towns of Sholapur, Jubbulpore and Cuttack, *viz.*, Rs. 21, Rs. 19 and Rs. 16, yielding an average of Rs. 19. At the rate of 2.25 consumption units we get Rs. 43 for a new entrant. For class III areas we may roughly take Rs. 35 as the corresponding requirement of a workman in the subordinate service.

99. All the three figures arrived at, namely Rs. 52, Rs. 43 and Rs. 35 are related to the basic year 1944. We think there should exist a difference of Rs. 8, Rs. 6 and Rs. 5 respectively between the initial wages in a class C bank and a class A bank in class I, class II and class III areas. We fix the following table, accordingly, of the initial wages in the three areas for the three classes of banks:

	Class A banks	Class B banks	Class C banks
	Rs.	Rs.	Rs.
Class I areas	60	56	52
Class II areas	49	46	43
Class III areas	40	38	35

100. We have now to fix the increments in the different cases. We think that the following rates of increments would be appropriate and fix them accordingly :

Years of Service	Areas Class	Rates of annual increments: Class A banks	Class B banks	Class C banks
		Rs. A.	Rs. A.	Rs. A.
Class II .. .. areas ..	Rs. 46—1—60—1½—85 (14 yrs.) (10 yrs.)			
Class III .. .. areas ..	Rs. 38—1—52—1½—67 (14 yrs.) (10 yrs.)			
Class C banks—				
2—15	I, II and III	1 0	1 0	0 8
16—25	I, II and III	1 8	1 8	1 0

101. We, accordingly, direct that the basic scales of pay shall be as follows :

Class A banks—

Class I .. .. areas .. Rs. 60—1—74—1½—89 (14 yrs.) (10 yrs.)

Class II .. .. areas .. Rs. 49—1—63—1½—78 (14 yrs.) (10 yrs.)

Class III .. .. areas .. Rs. 40—1—54—1½—69 (14 yrs.) (10 yrs.)

Class B banks—

Class I .. .. areas .. Rs. 56—1—70—1½—85 (14 yrs.) (10 yrs.)

Class I .. .. areas .. Rs. 52—½—59—1—69 (14 yrs.) (10 yrs.)

Class II .. .. areas .. Rs. 43—½—50—1—60 (14 yrs.) (10 yrs.)

Class III .. .. areas .. Rs. 35—½—42—1—52 (14 yrs.) (10 yrs.)

102. In certain awards, *e.g.*, the Divatia award, chokras, hamals and boy messengers have been given a lower scale of pay than other members of the subordinate staff. We think that this is right in principle, as such employees are generally less than 18 years of age. We accordingly direct that hamals, chokras, messengers or office boys less than 18 years of age should get the general scale fixed for the subordinate staff reduced by Rs. 5 per month and that the reduced scale should apply to them until they attain 18 years of age.

103. In Mr. R. Gupta's award two categories of workmen in the cash department have been placed between the scales fixed for the subordinate staff and the clerical staff, namely,

Poddars .. .. Rs. 45—3—90
Collecting sarkars .. .. .. Rs. 45—3—90

Another such class of workmen referred to by the Indian Bank are the *gollas*, said to correspond to money testers in the Imperial Bank of India. Such employees appear generally to be drawn from the middle classes, but their work is such that it can be done by intelligent members of the subordinate staff also. We think that Mr. R. Gupta was right in assigning to them a position intermediate between the clerks and the members of the subordinate staff: such employees appear to be drawn from a class whose standard of living is something between that of a clerk and that of a peon. For *poddars*, money testers, collecting sarkars and *gollas*, therefore, we direct that their basic pay shall be the average of the basic pay of a clerk and that of a member of the subordinate staff for each year of service in each class of bank and area.

CHAPTER VI

Objections as to Scales of Pay

104. It has been contended that nothing substantial has been shown by the employees to establish or indicate that any need has arisen for a change in or improvement upon the awards made with regard to banks in different parts of the country, the most important of them having been made in 1947. Reliance has been placed by the banks on the following observations made by Mr. Justice Divatia in the Bombay Electric Supply and Tramways Company award:

> "Without going so far as to say that the employees are barred by *res judicata*, any demands which are made before me and are covered by any decision in the previous adjudications cannot be proceeded now unless the employees prove any change of circumstances after the previous decision. If there has been no change of circumstances, the mere ground that the previous adjudicator had not granted a demand would not, in my opinion, justify the employees in repeating the same demand before a new adjudicator because that would be substantially asking one adjudicator to sit in judgment over the decision of another adjudicator.[1]"

105. So far as the Divatia award is concerned, dissatisfaction among the employees about it has led to several banks' employees having got it terminated under the Bombay Industrial Relations Act, The dissatisfaction that arose after the publication of Mr. B. B. Singh's award led to the appointment of a Conciliation Board which had to raise numerous issues, a large number of which still remain undecided. Secondly, both these awards were made before the publication of the Central Pay Commission's Report. The said Report no doubt relates to Government servants of the Central Government, but it went so thoroughly into the conditions of service of the employees concerned and has arrived at such important conclusions that it has become a book of reference to all adjudicators who have to deal with employees with similar or comparable conditions of service. It may well be that if this Report had been available at a date prior to the awards referred to above those awards would have been different in substantial particulars. Another important Government Report which is available to this Tribunal but which was not available to the previous adjudicators is Mr. Subramanian's Report on the middle class employees of the Central Government. Thus there are matters on which the previous adjudicators have had largely to speculate but on which more concrete data are now available. Thirdly, there are several discrepancies between the pay-scales, rates of dearness allowance, etc., as laid down by the different awards, and one of the objects with which the present Tribunal was constituted was that as much uniformity as possible should be attained in such matters. Fourthly, it is to be remembered that demands to some extent are conditioned and limited by the existing circumstances, *e.g.*, the existing scales of pay, and what is likely to appear reasonable in such circumstances: there is a limit beyond which demands, by appearing unreasonable or exaggerated in the context of the existing situation, would often defeat themselves. It is particularly to be borne in mind that of late workers have become increasingly conscious of their right and in this they have been influenced as much by political developments as by economic conditions, *e.g.*, labour disputes, awards and inquiries such as those of the Central Pay Commission. At page 27 of their Report the Commission have remarked:

> 'We must also recognise that wage conditions reflect in a large measure the political development at which a community has arrived. It

1. *Bombay Labour Gazette*, December 1947, page 482.

is common knowledge that people in India (as elsewhere) have of late been influenced by the trend towards socialism. Experience of war service and high wages paid during the war have created a ferment and a changed outlook. Classes who were hitherto content to accept their lot now show an intolerance of unsatisfactory conditions of work and an increased desire to improve their standard of living. The suffering of the humbler classes of public servants during the war years have created in their mind a bitterness which belated and grudging measures of relief have not by any means helped to assuage. The growth of Trade Unionism in the services is in great measure due to the feeling that they were being ill-paid and exploited. The appointment of this Commission and the prospect of impending political changes have led the Services to form vague expectations of a new order. It is against this background that their claims for enhanced remuneration, for better treatment and for improved conditions of service have to be viewed."

106. It is true that the demand of the employees as presented before the adjudicators of the previous awards were generally substantially lower than those that are being made now. Before Mr. B. B. Singh and Divatia J., the lowest demand for a clerk's pay was Rs. 75 per month, and before Mr. R. Gupta, at Calcutta it was Rs. 70 per month. The present demands for the clerical staff mostly start with Rs. 100 per month. But it is to be noted, in the first place, that not only was a pay-scale demanded, but other allowances as well, such as a housing allowance at Bombay. Shortly after the reference of the Calcutta dispute to Mr. R. Gupta the employees of the Imperial Bank of India in the Bengal Circle made demands for a housing allowance and seven other kinds of allowances, besides revision of the dearness allowance. Before Mr. B. B. Singh also, demand for house allowance, scheme of provident fund, old age pension, gratuity, etc., were made. In any case, the demands now made purport to be based on the proposition that actual needs must be met. Such a demand cannot be ruled out solely on the ground that lower demands were made sometime earlier, without looking into their merits. The different considerations set forth above sufficiently negative the argument, in our opinion, that we are being invited to sit in judgment over the previous awards. It will be seen that there is no principle of *res judicata* involved. Change of circumstnces create new demands and the claims have to be considered on the basis of materials or data available from time to time. One of the important factors to be taken into account in the adjustment of industrial relations between capital and labour is the time spirit. The increasing consolidation and organizational capacity of labour, the incrasing realization of its strength and importance, the increasingly evident human aspect of its demands are matters which often invest old demands with a new complexion, a new context.

107. It is also true that certain unions and associations have even now made demands below those made by other employees. For instance, the Bank of Behar Employees' Association, Patna, has asked for Rs. 70 per month and the Bharat Bank Employees' Union, Delhi, has asked for Rs. 80 as the starting pay for the clerical staff. The large majority of employees' unions and associations, however, have asked for Rs. 100 as the starting pay. In view of this it would not appear unlikely that the unions and associations which have made more modest demands, if only those demands were granted, would increase their demands in the near future. In any case it would not be proper to drag the demands of the majority down to the level of the lowest demands made. The need for establishing uniformity, so far as it can be attained, must be the overriding consideration.

CHAPTER VII

Increments and Efficiency Bars

108. One part of item 1 in Schedule II is, "whether the remuneration of employees and their periodical increments should be correlated to their efficiency and attendance." This raises two questions: (1) whether the earning increments should be automatic or contingent on minimum of efficiency and (2) whether, besides, there should be efficiency bars in the scales of pay. The employees have contended that all increments should accrue automatically and that there should be no efficiency bars. As to the first contention they base it on the ground that the increments fundamentally constitute a recognition of the growing needs of a workman's family and the stoppage of an increment may drive him and his family below the subsistence level. As a matter of fact the prevailing practice seems to be to allow the increments annually more or less as a matter of course, an employee's efficiency being scrutinized specially when he has to cross an efficiency bar.

109. We do not think that increments merely constitute a recognition of the growing needs of a workman's family. They are also based on the growing experience and consequent efficiency of the workman, and the question of efficiency, therefore, cannot altogether be divorced from increments. As Mr. Justice Divatia has observed in the Bombay Banks award, "The employer has a right to expect a fairly good level of efficiency for the increments which are to be given in the grade itself." The management must have the power to demand a certain minimum of efficiency and, if that minimum be not attained, to withhold the next increment.

110. As to efficiency bars, the employees are against them on the grounds (1) that they place too much power in the hands of the management which is liable to be abused and (2) that they are generally placed haphazardly at different stages of the time scales without any reference to such stages as would require a careful estimate of a workman's ability to tackle a different kind of work or to be equal to the demands of a new grade of office. It has been contended that if a workman has been successfully working in a certain capacity for a number of years, it would be absurd for the management one day to examine his efficiency if he is thereafter to continue doing exactly the same kind of work. The necessity for such examination would arise only if his work was unsatisfactory; and if his work was not till then considered but found on examination to be unsatisfactory, that would primarily indicate defective supervision. As a matter of fact, however, nearly all the awards brought to our notice, including bank awards, place certain efficiency bars in the pay scales laid down. Mr. Gupta in the Imperial Bank of India award in West Bengal observed, "The efficiency bars as well as the prospect of promotions in the senior grade will provide the necessary incentive to efficient performance of duties." Mr. Justice Divatia remarked in the Bombay Banks Award: "If there is no such bar a clerk who is found to be inefficient after his confirmation will have no incentive for improvement throughout his whole service and the employer may have no alternative except to discharge or dismiss him." Before the Central Pay Commission also the Services expressed their dislike of efficiency bars and they pointed out that the power of the head of the office to stop increments in case of inefficiency was just as effective in its operation as an efficiency bar. The Commission said, "We cannot accept this view. Stoppage of increments is regarded, and rightly regarded, as in the nature of a condemnation and attitude of the head of the office in resorting to that course must be different from his attitude in applying the efficiency bar. The principle of the efficiency bar is that on reaching a certain

point in the salary scale an officer shall be certified as competent to carry out the higher duties of the grade before further salary advances are granted.[1]" In this view a distinction is to be observed between the test implied in stoppage of an increment and that implied in applying an efficiency bar. In practice, however, usually when the time for testing with reference to an efficiency bar comes, there is no question of "higher duties" for which the employees in question is to be tested. In the Divatia award four grades (A, B, C and D) are shown on the same pay scale, there being three efficiency bars between the grades. It is, however, difficult to see how the different grades could stand for different kinds of work or duty, seeing that each comprises certain specified years of service, *e.g.*, the last 3 years constitute grade 'A' and the 19th to the 22nd year grade 'B'.

111. There is no doubt some force in this criticism. But the question that arises is, apart from the occasions when an employee's increment can be stopped as a condemnation or punishment, is it not necessary to have periodical check-ups of an employee's efficiency, even if he is not going to be given higher or more onerous duties at the next stage? We think that such tests or check-ups should not altogether be abandoned, though we are aware that in the United Kingdom no efficiency bars exist in the banks' services; Mr. Blair on behalf of the Allahabad Bank, the Eastern Bank and the Mercantile Bank of India told us that in the United Kingdom a report was made each year regarding each employee on which his increment depended. In a recent award made by the Court of Arbitration in New Zealand about the Bank of New Zealand and certain privately owned banks, a time scale of salaries has been laid down for the staff, but no efficiency bars have been inserted therein[2]. Mr. Justice Divatia put no efficiency bars in his award concerning Greaves Cotton and Crompton Parkinson, Ltd., and other allied concerns[3].

112. We have, however, to consider the circumstances generally prevailing in this country. Efficiency bars exist in the Government services and have been inserted in nearly all awards relating to scales of pay made by Industrial Courts and Tribunals. The relations between the employees and the employers are not, unfortunately, as good as might be desired. If efficiency bars be abolished the employers would, in our opinion, be likely to resort more frequently to stopping increments than if such bars be retained, and the employees would suffer from an ever-present feeling of constraint or apprehension that their increments may be stopped in any year. Such a result, in our opinion, would be less likely if efficiency bars, in some form, be retained. We think, however, that there should not be more than one efficiency bar in an employee's whole career. We find that in most of the scales of pay applicable to Government servants that have been brought to our notice not more than one efficiency bar has been inserted. In our opinion it should be introduced fairly late in an employee's career; and we direct that it should be placed between the seventeenth and the eighteenth year of service in the case of all employees.

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1. Report of the Central Pay Commission (1947), pp. 39-40.
2. "The Bank Officer", June 1949, page 3.
3. 1948 I.C.R. (Bom.) p. 223.

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CHAPTER VIII

Adjustment to the new Pay Scales

113. We next proceed to item 2 of Schedule II; "Rules for fitting the existing staff into the revised scales of pay." All the employees have asked for a 'point to point' adjustment, *i.e.*, the placing of each employee at that stage in the new scale to which he would have arisen by reason of the length of his service if he had entered service on the new scale. All banks have opposed such adjustment. Mr. Justice Divatia dealt with the difficulties presented by the question of adjustment in paragraph 23 of his award. One objection made by certain banks before him was that the effect of a point to point adjustment "would be practically to make the operation of the award retrospective from a period of more than twenty years before the present dispute." Mr. Justice Divatia observed, "I think there is some force in this contention. At the same time it must be remembered that no adjustment can be completely satisfactory to the whole of the staff. If the pay of all clerks who are senior in service is to be increased as if they were governed by the new grades from their start, irrespective of their efficiency, it would give grounds for complaint that they got the highest of the new grade without fulfilling the condition of crossing efficiency bars at different stages and that they would now get more salary than those who, though junior in service, are getting more on account of their efficiency. On the other hand, if adjustment is to be made only on the basis of the present salaries, the seniors will have a grievance that they do not get any benefit of the new grades. Some dissatisfaction is, therefore, bound to be caused by any basis of adjustment." On account of those difficulties it was agreed at his suggestion that each big bank might make such adjustment as was best suited to its own circumstances, leaving it to the employees, if such adjustment was found generally unsatisfactory, to apply to the Court for its modification. No such direction, however, was given in respect of the small banks covered by his award. Mr. B. B. Singh gave no direction regarding adjustment; nor was adjustment the subject matter of any of the 106 issues framed by the Conciliation Board appointed for the clarification and interpretation of Mr. Singh's award. Neither Mr. R. Gupta in his award regarding the Imperial Bank of India nor Mr. S. K. Sen in his awards regarding the Central Bank of India has allowed point to point adjustment. The Imperial Bank of India appears to have made a point to point adjustment in applying the awards in the case at least of a large number of its employees. The Central Pay Commission examined the question of "fitting existing employees into the proposed scales" in paragraphs 68 to 70 of their Report. The Commission observed, "We have been asked to assume that the new scale had been in force from the commencement of the service of each individual. We are unable to accede to this claim and we see no justification for it. It seems to us right to presume that, except in the lowest grades, the revised scales of 1933 were not inadequate with reference to the then prevailing price level or cost of living. Unless this assumption can be displaced, the claim made by the Services cannot be sustained." The Commission recommended that an employee's initial pay in the new scale should be fixed first by taking the stage next above the pay being drawn and then by adding special increments at the rate of one increment in the new scale for every three completed years of service. This rule was to be subject to certain ceilings mentioned in the Report. With certain variations this rule has been followed by the Industrial Tribunals at Bombay in a number of their awards.

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114. Besides the argument used by the Central Pay Commission against the point to point method of adjustment, some of the other arguments urged against it were as follows:

(1) Adjustments have already been made under the existing awards, in no case there having been a point to point adjustment. To introduce such adjustment now would have a very disturbing and upsetting effect.

(2) Cases of special promotion and cases of retarded promotion would be unfairly affected, and seniorities would be disturbed.

(3) Many employees would jump over efficiency bars they have not crossed.

(4) If point to point adjustment be given, the result would be to raise the pay of a large number of employees suddenly by disproportionately large amounts, subjecting the resources of the banks, besides, to a severe and perhaps unbearable strain.

115. On the other hand, the following contentions have been advanced on behalf of the employees:

(1) If the point to point method is not adopted one would not get one's legitimate place on the new scale.

(2) Hardly any of the present employees, except under such adjustment, can hope to reach the maximum pay in his 25th year of service, and many would never reach it.

(3) If the present scale is higher than the existing one, it shows that up till now the employees have been inadequately paid, and a point to point adjustment would give them some compensation for this.

(4) The new scales are intended for the present employees (who have raised the present dispute) rather than for future recruits, and it is against reason and commonsense to put a man in the 12th year of his service, for instance, in the new scale as if he was in his 8th year merely because he has been getting less in the past than what the Tribunal has found to be reasonable. Such a procedure could be aptly described as giving with one hand and taking away with the other what is legitimately one's due.

116. In the passage from the Central Pay Commission's Report quoted above they said that it seemed to them right to assume that, except in the lowest grades, the revised scales of 1933 had not been inadequate with reference to the then prevailing price level or cost of living. Similarly several banks have referred to the fact that after the previous awards they have made adjustments to fit their staff to scales of pay laid down therein and have contended that such adjustments were adequate in the circumstances then existing. But those adjustments were made fairly recently and they have generally been characterised (apart from the question of the adequacy of the awards on other points) by the employees as unsatisfactory where no point to point adjustment was made. Besides, the pay scales prescribed by us and those laid down in the previous awards all refer to base years within a year or so of each other and are thus comparable; and as there is no sufficient material to show that the scales prevailing prior to the awards were adequate, it can be fairly contended, in our opinion, that as new pay

scales are being laid down now the question how they are to be applied with reference to the years of an employee's service can and should be examined afresh, without reference to the manner how the corresponding problem was dealt with under the past awards. We do not think that, as under the Bombay award, it would be proper to leave such an important question as adjustment to the new scales of pay to the discretion of the banks. It is a matter which vitally affects the employees, and the persistence with which they have urged point to point adjustment in different adjudications, although they have practically never got it in any award, would *prima facie* suggest a failure on the part of the tribunals to solve the problem in a completely satisfactory manner. In fact, it is difficult to answer the question, if you are going to lay down a scale of pay and then apply it in such a manner that most of the workmen concerned may not get the full benefit of it, what is the point of devising the scale at all? It is the present workmen who have come before the Tribunal with their dispute (and not the future entrants) and who are, therefore, primarily entitled to the benefit of any scales of pay that may be laid down. It is to be remembered that they are laid down with reference to the years of an employee's service, being based mainly on consideration of the needs of an employee according to different years of service, corresponding roughly to different years of his life. As a matter of fact, in the United Kingdom banks provide scales of pay according to the age of their clerical staff, and this practice also obtains in the awards of the National Arbitration Tribunal (see, for instance, its award No. 1296, dated the 21st July 1949, regarding salary scales of the clerical staff employed by the Teachers Provident Society, London). It seems that in this country considerations of the large increases in pay involved in applying the prescribed scales according to the years of service, as well as of the employees' capacity to pay, have generally resulted in the adoption of the kind of schemes that the Central Pay Commission recommended. We shall take a few typical Bombay awards. In an award made in 1947 regarding the Bombay Municipality and their employees[1] Mr. Justice Divatia observed: "It is true that the method of point to point adjustment is more favourable from the employees' stand point but that system ignores the element of efficiency of a clerk and a less efficient clerk is put at a higher grade than a more efficient clerk merely because of his years' service. The argument which is principally urged in favour of the point to point system is that a senior clerk must get a living or a saving wage at the time when adjustment is to be made and if he did not get an adequate amount of pay in the first years of service, there should be no reason why he should not get a wage which would be sufficient for maintaining his increasing family and also for saving some part of his pay after he became sufficiently senior in service. But the question of the total burden which would fall on the employers on account of this point to point method is also an element to be considered." The learned Adjudicator confirmed the method adopted by the Corporation, namely, "For less than one year's service—no increment; for service for one complete year—1 increment in the corresponding revised grade; for service of more than 1, up to 4 years—2 increments in the corresponding revised grade; for service of more than 4 years—3 increments in the corresponding revised grade", except in certain special cases. This method of adjustment was adopted by the same learned Adjudicator in his award regarding Greaves Cotton and Crompton Parkinson, Limited, and their employees[2] and later by Mr. M. C. Shah in his awards regarding the Oriental Metal Pressing Works and their employees[3] and the Premier Construction Company, Limited, and others and their workmen.[4]

1. Bombay Government Gazette Extraordinary, 27th November 1947, P. 4495.
2. 1948 I. C. R. (Bom.) 233.
3. 1949 I. C. R. (Bom.) 269.
4. 1949 I. C. R. (Bom.) 703.

117. In our opinion the two main arguments as regards the application of the point to point method are: (1) under the award itself an employee is held entitled to the pay appropriate to the years of his service and (2) an employee should not get too big a jump in his pay, particularly if it places the employer suddenly under too great a burden or even a heavy burden. The first is an argument based on a right while the second is based on expediency or practicability. As it seems to us possible that a point to point adjustment may suddenly prove too onerous to a number of banks we have decided to adopt a compromise between the two methods advocated by the parties, for we do not think that it would be right to deny the employees' claim altogether; theoretically that claim is superior to the contentions urged against the point to point method. We, accordingly, give the following directions regarding adjustment:

(1) When an employee already in service is brought on to a scale of pay laid down by us, his pay shall be fixed by—

(*a*) putting him at a stage in the new scale of pay where the total of the pay, the dearness allowance and other allowances, if any, drawn by him under the existing scales at least equals the total of the pay and the dearness and other allowances that would be drawn under the scales now prescribed, and thereafter,

(*b*) in case the stage to which a point to point adjustment would have entitled him has not been reached, adding increments in the new scale of pay at the rate of one increment for every three completed years of service, provided that by this process the stage to which a point to point adjustment would have entitled him is not exceeded or overstepped.

(2) The application of the above process may still leave a gap, consisting of one or more increments between the stage in the new scales of pay thus attained by him and the stage to which a point to point adjustment would have entitled him. We direct that in such a case he shall be enabled to cover this gap, within a maximum period of four years, by getting, after the first year under the new scale, extra increments (*i.e.*, in addition to the increments he will normally get), according to the following scale:

Number of extra increments in the new scale to be made up	Number of year in which this process is to be completed	Procedure
1	1	
2 or 3	2	1 or 2 increments per year, two increments being given in the second year where necessary.
4 to 6	3	1 or 2 increments per year, two increments being given in the later years except where they are necessary throughout.
More than 6	4	1, 2 or more increments per year, the larger number of increments being given in the later years.

Illustration:—An employee is on the following scale:

Rs. 40—3—61—4—93—5—113—7—120. He is in the fifth year of his service and is getting a pay of Rs. 52 and a dearness allowance of Rs. 20, *i.e.*, Rs. 72 in all. Suppose that the new scale which is applicable to him is Rs. 64—4—98—5—123—131—6—167—174—182—191, the dearness allowance

being 25 per cent of the pay. The adjustment will be as follows: Under direction (1) (*a*) he is put at the bottom of the new scale, where he gets Rs. 64 *plus* Rs. 16 or Rs. 80 in all. Under directions (1) (*b*) one increment will be added, bringing up his pay to Rs. 68. Under a point to point adjustment he would be entitled to a pay of Rs. 80 in the new scale. He has, therefore, to make up a "gap" of three increments. Those, under direction (2), will have to be made up in two years. Therefore, in the next year he will earn one ordinary and two special increments, *i.e.*, Rs. 8 in all, and in the year after he will earn one ordinary and two special increments, *i.e.*, Rs. 12 in all.

(3) The above directions shall be subject to the following provisions:

(*a*) The employers' ordinary right of stopping an increment, as a measure of disciplinary action under this award, will not be affected, though it may result in an employee's not "covering the gap" within the appropriate period mentioned above.

(*b*) As far as possible the existing seniorities among the employees should not be disturbed. An employee who has got special promotion may thus be ultimately placed at a point on the new scale correspondingly higher than the number of the years of his service would warrant. Similarly, an employee who has not been able to earn (otherwise than by way of previous adjustment) the usual increments will have to be placed on the new scale at a point correspondingly lower than what he would otherwise have attained.

(*c*) In any case where, at any stage, under the existing scale of pay an employee's pay is more than the pay that would be due under this award, such pay under the existing scale should be retained and the total of the other emoluments due under this award should be reduced accordingly, provided that where the total of the other emoluments under the existing scales of allowances exceeds such reduced total of their emoluments under this award, the existing other emoluments should continue to be paid in lieu of the dearness and other allowances, if any, payable under this award.

(*d*) In any other case where, at any stage the existing scales of pay, dearness allowance and other allowances the total emoluments exceed the total emoluments due under this award, if the pay be less than under this award it should be brought up to its level and the balance of such existing emoluments should continue to be paid in lieu of the dearness and other allowances, if any, payable under this award.

(*e*) In the adjustment to be made immediately on the introduction of the pay scales, etc., laid down by us efficiency bars in the existing scales of pay, if any, should be disregarded.

(*f*) In these directions the expression "other allowances" and "emoluments" should be understood to mean allowances and emoluments exclusive of hill, fuel, halting and washing allowances, if any.

118. As to the expression "emoluments" used anywhere in this award, it is our intention that no amount which is contributed by a bank towards a provident fund, pension or guarantee fund or similar other fund for the benefit of the employees should be deemed for the purposes of this award, to be a part of an employee's emoluments.

CHAPTER IX.

Dearness Allowance

119. The next matter that arises for our consideration is the subject of dearness allowance (item 3 in Schedule II). The existing awards with regard to banks provide for fixed percentages of the basic salary or wage as dearness allowance. That this is an unsatisfactory method has been shown by the fact that the percentages fixed in the Divatia award were soon found inadequate and not only did several banks voluntarily raise those percentages but several adjudicators in West Bengal, who were prepared to follow the general scheme of the said award, were compelled to raise them. In our opinion it would be best to relate the dearness allowance of any place to the cost of living index figures of such place or the place nearest to it for which the Central Government publish such figures, with the proviso that in the unlikely contingency of any place happening to be equidistant from more than one place for which such figures are published, its index figures should be taken as the average of the index figures for the latter places. The existing series of the cost of living index figures for Bombay City, Ahmedabad, Sholapur, Jalgaon, Kanpur, Nagpur and Madras will have to be reduced to the base of 1944 by the process already described.

120. We do not think that even at the lowest level the increase in the cost of living since 1944 can be allowed to be fully neutralised. While recognizing that at that level we have taken into consideration more or less the fundamental needs of an employee, it is also necessary to remember that all salaried persons, especially of the middle classes are called upon to make sacrifices in the present times in view of the existing low level of the national standard of income and that even the poorest representatives of such classes must not shirk the duty of shouldering of a part of the burden which has fallen on the entire nation. It should also be borne in mind that in Mr. Subramanian's estimates regarding expenditure, except for unusual items like expenses due to marriages and serious illness practically all possible items of expenses have been taken into account, including several items which do not find place in the budgets of the working classes, *e.g.*, newspapers, club subscription, religious ceremonies, gardening, children's education, sweeper, washerman and toilet requisites. Some of these items should be non-existent when an employee enters service; still they have entered into the calculations for ascertaining the requirements of an employee even when he enters service. We consider that the following scale of dearness allowances would be appropriate and direct that it shall apply:

Amount of monthly pay[1]	On every rise of 10 points in the cost of living index figure above the level of 1944[2] (calculate to the nearest eight annas and the indices being converted to the base 1944 = 100)
Up to Rs. 50	9 3/8 per cent.
Thereafter up to Rs. 100	8 1/3 per cent.
Thereafter up to Rs. 150	7 1/2 per cent.
Thereafter up to Rs. 200	6 1/4 per cent.
Thereafter	5 per cent.

1. As defined in Chapter XII.

2. On the basis of the index figures published in the *Indian Labour Gazette* and (in the case of Calcutta) in the Monthly Abstract of Statistics published by the Government of India.

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An illustration of how this scale is to be applied may be given. Suppose that we have to ascertain the dearness allowance for a workman in the Bombay City earning Rs. 150 per month when the working class cost of living stands at the index figure 300. The index figure for 1944 was 226 and if the two index figures be converted to the base 1944 = 100 we get the index figures 100 and 132 respectively. That means that there have been three rises of 10 points in the cost of living index figure above the level of 1944. The dearness allowance will, therefore, be—

On the first Rs. 50	...	Rs. 50 × 9 3/8 divided by 100 × 3 or Rs. 14.
plus on the next Rs. 50	...	Rs. 50 × 8 1/3 divided by 100 × 3 or Rs. 12-8-0.
plus on the next Rs. 50	...	Rs. 50 × 7½ divided by 100 × 3 or Rs. 11 *i.e.*, Rs. 37-8-0 in all.

121. The first part of item 3 in Schedule II is, "Dearness allowance to staff as well as pensioners." There are only a few banks, *viz.*, the Imperial Bank of India and some exchange banks, which give pensions to its employees on their retirement and the subject of pension is to be dealt with under item 9 to Schedule II. The Central Pay Commission have said, in paragraph 75 of their Report: "Consistently with our policy of helping those whose need is the greatest, we recommend that dearness allowance be limited to those drawing a pension of Rs. 150 per mensem or below and that the allowance be calculated at half the rate admissible as per slabs shown in the above table (in paragraph 72), treating pension as pay for the purpose." We adopt this suggestion except that instead of directing the calculation of dearness allowance at half the rate admissible for the scales of pay we direct that the following rates shall apply, treating all pensions as if they related to the base year 1944:

Amount of monthly pension	On every rise of 10 points in the cost of living index figure above the level of 1944 (calculated to the nearest eight annas and the indices being converted to the base 1944 = 100).
Up to Rs. 100	6 1/4 per cent.
Thereafter up to Rs. 150	5 per cent.

122. The next part of item 3 in Schedule II, "Can a portion of the dearness allowance be transferred to, and absorbed in, the basic wage" has already been dealt with by us in Chapter IV. The last part of item 3 is, "In particular can this be done in the case of banks in the United Provinces in respect of the allowance payable at the commencement of Mr. B. B. Singh's award". Our answer is that is not necessary to do anything to disturb the implementation of that award, which now stands modified by our interim award, with respect to the period prior to the date on which this award comes into operation.

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CHAPTER X.

Employees to whom Award is Applicable

SECTION I

Employees concerned

123. We next take up item 37 in Schedule II, "Categories of employees to whom the award of the Tribunal is applicable." It is not disputed that it would be applicable to all workmen as defined in clause (s) of section 2 of the Industrial Disputes Act which is as follows :—

> "Workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled, manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air services of the Crown."

The advocates and representatives of the employees, however, relying on the definition of "industrial dispute" in clause (k) of section 2 of the Act, have contended that the award should also apply to any person in connexion with whose terms of employment or conditions of labour a dispute has been raised by workmen (including workmen's unions), *e.g.*, the question of whose pay or scale of pay has been raised by them in their demands. That clause reads thus :

> "industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person."

Demands for revised scales of pay have come mainly from :

1. Federation of Bank Employees, Bombay.
2. Imperial Bank of India Indian Staff Association, (Bombay Circle), Bombay.
3. Imperial Bank of India Indian Staff Association (Bombay Circle), Poona.
4. Imperial Bank of India Indian Staff Association (Bengal Circle), Calcutta.
5. Imperial Bank of India Indian Staff Union (Madras Circle), Madras.
6. The United Provinces Bank Employees' Union, Kanpur.
7. Allahabad Bank Indian Staff Association, Calcutta.
8. Allahabad Bank Employees' Union, Delhi.
9. Bank of Behar Employees' Association, H.O. Patna.
10. Bank of India Ltd., Staff Union, Ahmedabad.
11. Bharat Bank Employees' Union, Delhi.
12. Central Bank of India, Elected Representatives, Delhi.
13. Ahmedabad Bank Employees' Union, Ahmedabad.

124. Excluding the subordinate staff, the demands concern mainly the following categories of employees :—

1. Clerks, graduates, diploma holders (C.A.I.I.B. or C.A.I.B.), ledger keepers, record keepers, counter clerks,

2. Godown keepers, collecting sarkars, bill collectors, money testers, *gollas*, pass-book writers, hundi presenters,

3. Typists, telephone operators,

4. Cashiers, shroffs, poddars, tellers, munshis, sub-accountants, assistant accountants, assistant cashiers, assistant khazanchis,

5. Stenographers, comptists, comptometer operators,

6. Head clerks, head cashiers, accountants, khazanchis, superintendents, supervisors, departmental-in-charges, clerks-in-charge,

7. Assistant managers, sub-managers, assistants,

8. Agents and managers.

Objections from the banks to the contention of the employees mainly take the following forms :—

(*a*) Some employees (*e.g.*, those mentioned in classes 7 and 8 above as well as most of those mentioned in class 6) are officers, and the Tribunal has no jurisdiction regarding them.

(*b*) Some (*e.g.*, certain head cashiers and khazanchis) work in the banks under special contracts and the scales of pay, etc., applicable to them are outside the Tribunal's jurisdiction.

(*c*) Some (*e.g.*, those working under treasurers and head cashiers) are in fact not the bank's employees at all, having been brought in by the treasurers or head cashiers concerned and holding office during the latter's pleasure. They, too, are outside the Tribunal's jurisdiction.

125. (*a*) As to the argument based on certain employees being officers, our view has already been indicated in our award dated the 19th January 1950 regarding certain cases of alleged victimization, etc., in the States of Delhi, East Punjab and Bihar, *viz.*, a dispute between employers and workmen may relate to employment or non-employment or terms of employment or non-employment or conditions of labour of persons who are not workmen. Sen J's judgment in Calcutta High Court in *Birla Bros.* v. *Employees' Union, R.*, v. *National Arbitration Tribunal*[1] and the case of *the Western India Automobile Association* v. *the Industrial Tribunal, Bombay*[2] were relied on in support of this view. We would further point out that in the last mentioned case, with reference to the words "employment or non-employment" in the definition of "industrial dispute", the Federal Court observed : "The failure to employ or the refusal to employ are actions on the part of the employer which would be covered by the term 'employment or non-employment'." Such failure or refusal would give rise to an industrial dispute regarding a person who was not employed and therefore could not be a workman ; and the illustrations given at page 898 of the report include two instances of disputes concerning non-workmen. If the view urged by the banks be adopted, it would lead to the absurdity that a dismissed workman, on thus ceasing to be a workman, would have no redress. The view taken

1. (1947) All-England Law Reports, Vol. 2, p. 693.

2. 51 Bom. L.R. 894.

both in England (see *R* v. *National Arbitration Tribunal,* ex parte *Keable Press, Ltd.,*)[3] and in India is clearly against such a proposition. In the *Kandan Textiles Limited* v. *the Industrial Tribunal, Madras and others* decided on the 26th August 1949, the Madras High Court observed : " If——the dispute started with the dismissal (of a workman) it can be contended with great force that the dismissed workman cannot be held to be a workman within the meaning of the Act " (*per* Rajamannar C.J.; and " If such a dismissal, however, even of an individual workman is taken up by a workers' union or a substantial body of workmen who continue in employment and espouse his cause on industrial dispute may arise " (*per* Mack J). Sir Jamshedji Kanga contended that there might be an industrial dispute relating to a " potential " workman, but not relating to one who was not and could not be a workman at all. We find it difficult to appreciate this argument, for apart from the difficulty involved in the concept of a potential workman, such a person is as completely outside the definition of " workman " in the Industrial Disputes Act as any other person, *e.g.,* an officer.

126. Sir Jamshedji Kanga next contended that if the connotation of " any person " was as wide as contended by the other side, a clerk might raise a dispute even regarding the salary of a High Court Judge, and that it would be absurd for the Tribunal to try such a dispute behind the back of the person concerned and possibly condemn him unheard. It does not appear to us that there is any need for such apprehension arising out of the view we have taken. In the first place, the " dispute or difference " must be a real dispute or difference, *i.e.,* one in which a party is really interested, in the ordinary sense of the term, that is to say, the subject matter should be one which effects his present position or future prospects not remotely but proximately and should not be based on his theoretical or ideological opposition to an existing position of affairs or a more feeling, *e.g.,* that a High Court Judge is getting far too much or that in an ideal world the differences between the incomes of its citizens should be less marked than they are today. Secondly, merely by raising a dispute a party is not entitled to bring it before the Tribunal ; it must be referred by the appropriate Government under section 10 to the Tribunal for adjudication, and it is unlikely that unreal and absurd disputes would be so referred. Thirdly, if a dispute concerning an employee who is not a workman is so referred, it is extremely improbable that the Tribunal would proceed to hear it in the absence of such employee. Under section 11 of the Act it would have the same power as a Civil Court in respect of enforcing his attendance, and the language of clause (b) of section 18 indicates that such a person can be summoned to appear in the proceedings as a party to the dispute. Thus such a person, though not originally one of " parties to the industrial dispute " [clause (a) of section 18], would be included in the expression used in clause (b) " all other *parties* summoned to appear *as parties to the dispute* ", so that although a Tribunal has not in terms been given the powers of a Civil Court under Order I, rule 10 of the Code of Civil Procedure, in effect a similar power has been vested therein. Only in such a character can such a person be bound by the award. It does not, therefore, appear to us that there is any force in the contention of Sir Jamshedji.

127. Sir Jamshedji Kanga next relied on the case of *National Association of Local Government Officers* v. *Bolton Corporation*[4] wherein at page 176 the following observation of Viscount Simon L.C. occurs : " First, as to the meaning of ' trade dispute ' in this connexion. Having regard to its definition for present

3. (1943) All-England Law Reports, Vol. 2, p. 633.

4. 1943 A.C. 156.

purposes, and to the wide definition of 'workman' which has to be read into it in order to ascertain its ambit, I think that the phrase can cover a dispute as to conditions of service of officers of a municipal corporation". The two definitions referred to were to be found in the Conditions of Employment and National Arbitration Order, 1940 and were identical with those contained in the Industrial Courts Act, 1919. They were as follows :

> "'Trade dispute' means any dispute or difference between employers and workmen, or between workmen and workmen connected with the employment or non-employment, or the terms of the employment or with the conditions of labour of any person."
>
> "'Workman' means any person who has entered into or works under a contract with an employer, whether the contract be by way of manual labour, clerical work, or otherwise, be expressed or implied, oral or in writing, and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour."

It was held that the definition of "workman", which, on account of the expression "or otherwise" is obviously wider than the corresponding definition in the Indian Act, was wide enough to include officers. Sir Jamshedji has contended that if that were not so their Lordships would not have held that the definition of 'trade dispute' could cover a dispute as to the conditions of service of officers, for Viscount Simon used the words, "which (the definition of 'workman') has to be read into it (the definition of 'trade dispute') in order to ascertain its ambit." There, however, the dispute was first raised by the National Association of Local Government Officers, and being a party to the dispute they had to show that there was a valid trade dispute as defined in the Order; and this involved, showing that they were "workmen". This is all that appears to have been meant by Viscount Simon in speaking about the need for reading the definition of "Workman" into that of "trade dispute" and the ambit of the latter. There was no question in that case, and none was raised, regarding the meaning or connotation of the expression "of any person". We are, therefore, of opinion that this case does not help Sir Jamshedji.

128. The view that we are taking finds support also from some of the existing awards. In an award concerning an industrial dispute between the Central Bank of India, Ltd., and its employees in its Calcutta branches (published in the *Calcutta Gazette* under Order No. 1088 Lab., dated the 23rd December 1947 of the Government of West Bengal) the learned Adjudicator Mr. S. K. Sen observed : "It would appear, therefore, that there may be a legitimate industrial dispute under the Industrial Disputes Act concerning the terms of employment of an officer and a decision on such a point can also be given." In an award concerning an industrial dispute between certain joint steamer companies and their workmen (published in the *Calcutta Gazette* under Order No. 4748 Lab., dated the 17th September 1949) the learned Adjudicator Mr. A. Das Gupta, said, after referring to the expression "any person" in the definition of "industrial dispute",—

> "The word 'any person' is elastic enough to include an officer. An officer cannot himself raise an industrial dispute and demand his own reinstatement before an Industrial Tribunal. But the dispute relating to and concerning an officer may be taken up by a workman or for the matter of that by a Union of workmen, if it is a dispute of the workmen for it is then an industrial dispute. This

is permissible under the Law as it stands to-day and the Tribunal can assume jurisdiction of such a dispute when it is placed by the Union of workmen."

129. It is true that in the Bombay Banks award Divatia J. held that the only employees of the banks concerned who were affected by the dispute were such employees as did clerical work and the subordinate staff who did manual work; and he observed, "all other employees of the banks such as Superintendents and Junior or Senior Officers are excluded." This was because there was a fundamental difference in the scopes of the meaning and denotation of the expression "industrial dispute" in the Industrial Disputes Act, 1947 and the Bombay Industrial Disputes Act, 1938 under which the Bombay award was made. The latter Act has now been superseded by the Bombay Industrial Relations Act, 1946, but the definitions under those two Acts of the expression "industrial dispute" and "industrial matter" and those of the expression "employee", in the material parts, are identical or similar. In the Bombay Industrial Disputes Act, 1938 "industrial dispute" was thus defined :—

> "Industrial dispute" means any dispute or difference between an employer and employee or between employers and employees or between employees and employees and which is connected with any industrial matter."

> "'Industrial matter' means any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—
>
> (a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;"

"Employee" was defined as "any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry." Thus it will be seen that only matters pertaining to the (a) dismissal or (b) non-employment of "any person", are specifically mentioned in the definition of industrial matter" with which an industrial dispute must be connected under the Bombay Act. Therefore, no industrial dispute regarding the pay-scale or dearness allowance or any other question relating to an officer could apparently be raised under that Act. The scope of the definition of "industrial dispute" in the Industrial Disputes Act is much wider and enables a Tribunal appointed thereunder to take cognizance of such a dispute raised by workman, or a union of workmen, and referred to it for adjudication. The published report of the Conciliation Board appointed by the United Provinces Government under the United Provinces Industrial Disputes Act, 1947, for clarification and revision of Mr. B. B. Singh's award shows that a large number of issues were raised by the said Board. One of which was, "Class of employees affected by the Award." The decision of the Board that it could deal only with those employees who did manual or clerical work was, in our opinion, incorrect owing to the failure of the Board to appreciate the difference between the definition of "industrial dispute" in the Act aforementioned, which was the same as that contained in the Central Government's Industrial Disputes Act, 1947, and the corresponding definition contained in the Bombay Industrial Disputes Act, 1938 under which Divatia J. made his award at Bombay. Even the parties concerned appear to have thus misled, for they agreed that the Board could deal only with "manual workers and clerks, as opposed to officers."

130. A tribunal, however, may not always adjudicate on each and every question raised by any worker or union, especially when the terms of its reference are as wide as in the present case. In *Conway* v. *Wade*[5] Lord Loreburn L.C. said, "If this section is to apply there must be a dispute, however, the subject matter of it be defined. A mere personal quarrel or a grumbling or an agitation will not suffice. It must be something fairly definite and of real substance"; and Lord Shaw said, speaking about dispute between workmen and workmen, "But I cannot see my way to hold that 'trade dispute' necessarily includes accordingly every case of personal difference between any one workman and one or more of his fellows. It is true that after a certain stage even such a dispute, although originally grounded, it may be, upon personal animosity, may come to be a subject in which sides are taken, and may develop into a situation of a general aspect containing the characteristics of a trade dispute; but until it reaches that stage I cannot hold that a trade dispute necessarily exists." In the Australian case *George Hudson Ltd.* v. *Australian Timber Workers' Union*[6] Isacs J. observed:

> "The very nature of an "industrial dispute" as distinguished from an individual dispute, is to obtain new industrial conditions, not merely for the specific individuals then working from the specific individuals then employing them, and not for the moment only, but for the class of employees from the class of employers limited by the ambit of disturbance or dislocation of public services which has arisen or which might arise if the demand were not acceded to and observed *for a period* really indefinite x x x x It is a battle by the claimants, not for themselves alone
> and not as against the respondents alone, but by the claimants as far as they represent their class, against the respondents so far as they represent their class."

131. Such considerations are bound to arise where a Tribunal is called upon to adjudicate collectively on a large number of disputes arising or apprehended over a large area as in the present case. We do not therefore, propose to consider in this award matters which have not been raised by a sufficiently large number of workmen and which do not appear to affect them except remotely or indirectly. Such matters, for instance, would be questions of pay, etc., of managers and assistant managers. Questions relating to head clerks, supervisors or departmental in-charges were considered by Mr. B. B. Singh and are of more interest to workmen, for they may normally expect some day to be promoted to such offices. In this award on the dispute relating to the Central Bank of India, Ltd., (Calcutta branches), Mr. S. K. Sen, said, "Normally of course the workmen are not concerned with the terms of employment of the officers. The case of supervisors is, however, different, Supervisors are comparatively low paid officers and they have become members of the Employees' Association which is registered under the Trade Union Act." Mr. R. Gupta included head cashiers in his award.

132. We now proceed to deal with the argument (B) advanced on behalf of the banks, namely, that some employees (*e.g.*, head cashiers and Khazanchis), as they are employed on specific agreements and on special terms, are outside the jurisdiction of the Tribunal.

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5. (1909) A.C. 506.

6. 32 Commonwealth Law Reports, 411 at 441.

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133. We have looked in nine agreements between certain banks and their head cashiers, treasurers, cashiers or shroffs, and find *inter alia the* following common features therein:

(1) the head cashier, etc., is appointed and his salary paid by the bank;

(2) appointments to the staff under his control are made by him with the approval of the Agent or the Manager of the bank or by the bank on his recommendation; he can recommend dismissal, but the power of dismissal or of directing dismissal of such staff vests in the bank;

(3) he guarantees the bank against losses and expenses by reason of the acts, omissions and defaults of any members of the staff under his control and is responsible for the correctness and genuineness of all hundis, cheques, securities, vouchers, deeds, documents, writings and signatures which he accepts as correct or genuine, and he has to make good to the bank any loss or damage which may be sustained owing to forgeries, etc.;

(4) he is responsible for the safe custody of bullion, cash securities, etc., deposited with on belonging to the bank; and

(5) his services can be terminated by the bank for adequate reasons.

134. In certain banks, *e.g.*, the Punjab National Bank, Limited, and the U.P. Provincial Co-operative Bank, Limited, the treasurer is paid a lumpsum for running his department. In the Imperial Bank of India the khazanchi system prevails only at Kanpur and the same system of paying him a lumpsum obtains there. In the Allahabad Bank, Limited, the "treasurer's system" obtains but appointments in the cash department are made by the bank in consultation with the treasurer. Mr. Singh, on behalf of the Punjab National Bank, Limited, said that the bank had no control over the men working under the treasurer except as to the payment of their salaries which was made by the bank. But a letter dated the 24th December 1949 from the bank was produced in which it was stated that the promotion of the head cashier at Aligarh, who worked under a treasurer, had been stopped, he being an employee of the bank.

135. We do not think that the terms relied on by the banks in the agreements concerning the appointments of the persons under consideration have the effect of taking them out of the Tribunal's jurisdiction if they would otherwise come within such jurisdiction. As a matter of fact there is ordinarily an implied, if not an express, agreement between a bank and all its employees; and there can be no doubt that an industrial tribunal can look into and adjudicate upon a dispute even though it should involve written contracts. At page 536 of "Labour Disputes and Collective Bargaining" by Ludwig Teller it has been observed, "Industrial arbitration may involve the extension of an existing agreement, or the making of a new one, or in general the creation of new obligations or modification of old ones, while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements." That an industrial dispute might exist though the employers were legally entitled to do what they did is clearly recognized in the case of *National Association of Local Government Officers v. Bolton Corporation*[7]. The dispute in that case related to payments which the employers could legally make or legally refuse to make, and it was referred as a trade dispute by the Ministry of Labour, acting under the Conditions of Employment and National Arbitration

7. (1943) A.C. 166.

Order, 1940, to the National Arbitration Tribunal. It was held that it was a valid trade dispute properly referred to the said Tribunal. We are, therefore, unable to hold that such employees as are employed on specific agreements and terms are outside the jurisdiction of this Tribunal merely by reason of such agreements and terms. It has been pointed out that Mr. R. Gupta laid down a scale of pay for head cashiers in his award.

136. The last objection that has to be dealt with is (C) that some persons, *e.g.*, those who work under treasurers and head cashiers are not the banks' employees at all, having been brought in (or "intromitted", to use the language of some of the agreements) by the treasurers or head cashiers concerned and keeping office during the latter's pleasure. We have already noticed that the practice under the agreements is that appointments of the staff working under the control of the treasurer, head cashier, etc., are made either by him with the approval of the Agent or Manager of the bank or by the bank on his recommendation. Normally the persons so appointed are paid their salaries by the bank and the power of dismissal or of directing dismissal of such staff vests in the bank. There is no doubt that such persons have to work largely during the pleasure of the treasurer or head cashiers concerned, and we have seen certain instances in which a treasurer or head cashier has expressed his want of confidence is a certain employee working under him, with the result that the bank has felt obliged to terminate his services. The employees have complained that this is a device adopted by certain banks to get rid of inconvenient employees in the cash department, often rendering an industrial tribunal powerless in seeing through the device and affording relief to the employee concerned. We have not come across any case in which the service of an employee working in the cash department of a bank is so divorced from the bank's power of control, appointment, dismissal, etc., as to render him the servant of the treasurer or head cashier, etc., to the exclusion of the bank's service. In this connection the remarks of Mr. Justice Bind Basani Prasad, Chairman, U.P. Banks Conciliation Board in paragraph 17 at pages 14 and 15 of his Report published in the Award of the (U.P.) Conciliation Board (Banks), 1949, are relevant; he has taken the same view as we have taken here. We must, therefore, hold that the objection raised by the banks to this class of employees is not tenable and that we have full jurisdiction over the conditions of employment, etc., of such persons.

137. We are now in a position to answer the question raised in issue No. 37. It is unnecessary for our purpose to depart from the interpretation put upon the expression "workman" by Divatia J, for there is no substantial difference between its definition in the Bombay Acts and in the Industrial Disputes Act, 1947. He observed: "All that can be said is that the name (implying an officer's or a clerk's rank or grade) is immaterial. It is the character of the work which a person is doing that is material. If a person is doing work of a clerial nature but is called an officer and is given a lower salary than a clerk of his standing, he may choose to be put in the clerical grade if he thinks that injustice was done to him by taking him in the officers' grade. But if his work is that of an officer and not of a clerical nature, he may in the beginning get a lower salary than a senior clerk but with the prospect of getting in future a higher pay than the highest in the clerical grade." Some banks have been observed by us to have given certain employees powers of attorney, not because they have any need for the exercise of such powers but in order to bring them into the category of officers; and in certain cases employees have been temporarily promoted to an officer's rank with a similar object. Such subterfuges will now fail to yield the desired result in the view we are now taking. Whether such

a person is a workman or not will be a relevant consideration only in the context of the question, who is or are raising the industrial dispute ? In our opinion such a dispute with employers can now be raised by workers regarding employees who may not be workmen provided it is found to be a proper or valid dispute in which workmen may be regarded as being genuinely interested.

SECTION II

Head Cashiers, etc., and Departmental In-charges

138. We think that it would be appropriate to deal here with the following question : "Whether head cashiers or treasurers' representatives or any employees who perform their functions are to be treated as Departmental In-charges" (item 23 in Schedule II). In the issues raised before Mr. B. B. Singh the categories "head clerks, supervisors and departmental in-charges" were put together in one class (issue No. 2), and Mr. Singh prescribed a special pay scale for them for each class of banks. Thereafter when the U.P. Conciliation Board was appointed one of the issues raised before them (No. 26) was, "whether the Head Cashiers or Treasurer's representatives or any employee in the banks who perform the function of Head Cashiers are to be treated as Departmental in-charges of the Cash Department in the banks ?" This appears to have been the genesis of item 23 in Schedule II.

139. We feel that this question now ceases to be of much moment in the light of our findings, particularly as we propose to make provision in the next Chapter for the minimum special allowances (for certain categories of employees, *e.g.*, head clerks, supervisors and departmental in-charges. We have no doubt that each of them has his special importance ; and it is obvious that even where the "treasurer's system" exists a head cashier, who keeps a key of the treasury, signs important reports and is given a power of attorney and responsible work, is a very important employee. The treasurer is usually a businessman who guarantees the honesty of the head cashier and in some places does no work in the bank ; and the head cashier not only looks after the department and has custody of the valuables pledged with the bank but has also to make good any losses occurring in his department. But as we have already pointed out the issue is no longer important and it is not necessary for us to give an answer to or a finding on the question.

140. We have had, and shall have, occasion, in certain Chapters of this award, to give directions regarding "employees" or employees not belonging to the subordinate staff or establishment. In view of the considerations dealt with in this Chapter and the next, we direct that the expression shall include the categories if employees for whom we have provided special allowances in Chapter XI, but that subject to this such directions shall not be deemed to apply to managing directors, managers, agents, superintendents, accountants, head cashiers, treasurers and khazanchis and such other officers as may be drawing basic salaries of not less than Rs. 500 per month [8].

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8. This Chapter is subject to the Minute of Dissent by Mr. N. Chandrasekhara Aiyar printed at the end of the award.

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CHAPTER XI

Special Allowances

141. We have laid down the scales of basic pay for the clerical and the subordinate staffs. There have been, in addition, demands from the employees for special scales of pay or for special allowances for specific classes of employees, mainly on the grounds of special qualifications, skill or responsibility attaching to or required in the offices or jobs in question. The extra payment to be made for "trained, skill or other exceptional qualities necessary for an employee exercising the required functions" has been called the "secondary wage" by Mr. Justice Higgins in his "A New Province for Law and Order" (1922). The number of specific classes of offices or jobs for which special allowances or scales are demanded by the different unions is very large, and it is not usual to give special allowances or attach special pay-scales to all such officers or jobs. In respect of such of them as are specially treated in the matter of pay, again there is a great diversity in practice from bank to bank, and it does not appear possible, or necessary, to bring them under one rule, regardless of a bank's past practice or present capacity. Mr. B. B. Singh put cashiers and money-testers in the same scales as clerks and prescribed special scales for Headclerks, supervisors and departmental in-charges; and Mr. R. Gupta gave a special allowance to stenographers and specifically put head cashiers in the senior clerical grade (Rs. 100—8—180—E.B.—10—250). Mr. S. K. Sen in his award about the Central Bank of India and its branches in Calcutta has laid down the following scale of pay for supervisors: Rs. 85—15—145—E. B.—20—225—E. B.—25—300 Mr. Justice Divatia, in referring to the class of employees for which higher scales were demanded said, "The reason for asking for a higher start for these clerks is said to be that they are entrusted with work involving immediate personal responsibilities and that a clerk like a stenographer cannot be available even on a pay of Rs. 75 per month. It is true that at the present time one cannot get a good stenographer on Rs. 75 per month but I do not think that it is a sufficient reason for laying down an increased minimum for a stenographer. All that is necessary is to fix the minimum and the maximum and if any type of clerk is not available for the minimum fixed he may be employed on any intermediate pay in the grade according to his qualifications. As regards the other types of clerks for whom a higher start is demanded, work which is expected of them can be entrusted to clerks of some years' standing after they have gained sufficient entrusted to clerks of some years' standing after they have gained sufficient experience and merit. I do not, therefore, see any necessity to grant more salary from the beginning to clerks doing more responsible type of work".

142. It seems to us that two things can be said about the line of reasoning adopted above. In the first place, when an employee begins working in a special capacity (*e.g.*, as a head clerk) or enters service with special qualifications (*e.g.*, as the holder of a Banking diploma) he ought to know definitely the minimum salary to which he is entitled, just as an ordinary clerk is entitled. Secondly, if he is put on the ordinary pay scale somewhere above the stage where the years of his service would ordinarily have entitled him to be, he may come after a few years to the end of the scale, and if he gets no further promotion he would have to remain stationary for a large number of years on the same salary before he retires. Mr. Gupta prescribed two scales for clerks, namely, Rs. 70—4—126—E.B.—130—5—175 and Rs. 100—8—180—E.B.—10—250. Suppose that a clerk becomes a head clerk in the twelfth year of his service.. If there

1. Page 42.

be one scale of pay only, *e.g.*, the junior scale given above, he may be given a starting pay of Rs. 140 as head clerk; but he would reach the maximum of Rs. 175 in seven more years, *i.e.*, in the nineteenth year of his service. If, however, he be put on the senior scale of pay given above, he would not only reach a higher maximum pay, but go on earning increments for a longer term of years.

143. We have come to the conclusion that we cannot deal exhaustively with all classes or categories of jobs which ought to be specially remunerated. We think, however, that we should deal with certain categories of employees, regarding as of little moment the question whether any of the said employees are clerks or officers. We would omit from our consideration such undoubted and high officers as managers, superintendents, accountants, head cashiers and agents, and also leave out (*a*) categories which do not appear to deserve any special allowance or special pay scale and (*b*) categories regarding whom the question of giving them such allowances or scales has not been adequately or satisfactorily argued before us. We are omitting from our consideration the cases of managers and agents (regarding whose pay, or rather the limits of whose pay, demands have been made by some unions) not because they are officers, but because the demands made in respect of them do not appear to concern the employees whose representatives have appeared before us so intimately or proximately as to merit our attention or consideration. Another thing which we should want to make perfectly clear is that if we deal certain specific categories of employees in this part of our award that should not imply or lead to the inference that no other categories deserve to be, or should be, allowed special allowances or put or kept on special scales of pay.

144. We think that the following categories of employees deserve consideration:—

graduates,
holders of banking diplomas like C.A.I.I.B. and C.A.I.B.,
comptists,
stenographers,
cashiers,
supervisors,
sub-accountants,
clerks-in-charge,
departmental in-charges,
head clerks.

In our opinion it would be best if a minimum special allowance be fixed for each of the above categories in respect of the following four kinds of situations:

(A) Class A banks in class I areas,

(B) Class A banks in Class II areas and class B banks in class I areas,

(C) Class A banks in class III areas, class B banks in class II areas,

(D) Class B banks in class III areas.

For class C banks no special allowances, etc., need, in our opinion, be laid down by us. We lay down the following scales of minimum special allowances per month to be added to the pay to which an ordinary clerk is entitled:

Categories of employees	Situation			
	(A)	(B)	(C)	(D)
	Rs.	Rs.	Rs.	Rs.
Graduates	10	10	9	8
Banking diplomas holders (if non-graduates)	10	10	9	8

Categories of employees	Situation			
	(A)	(B)	(C)	(D)
	Rs.	Rs.	Rs.	Rs.
Banking diploma holders (if graduates)	15	14	13	12
Head clerks	10	9	8	7
Comptists	10	9	8	7
Stenographers	20	18	16	14
Cashiers-in-charge of cash in Pay Offices	15	14	13	12
Cashiers-in-charge of cash in Treasury Pay Offices, employees-in-charge of Pay Offices or sub-offices.	25	24	22	20
Supervisors, sub-accountants, departmental in-charges, employees-in-charge of Treasury Pay Offices.	50	48	44	40

145. The application of these scales should be subject to the rule that in case an employee comes within more than one category he should be entitled to the highest scale or rate applicable to him.

146. As regards the subordinate staff, Mr. B. B. Singh in his award mentioned only "peons and chowkidars", providing the same scale for them for each class of banks. The U.P. Conciliation Board's Report refers to the following categories:

Daftries, assistant daftries, jamadars, guards, sentries, godown coolies, godown peons, farrashes, watermen, call boys, bearers, durwans, head peons, cycle peons, messengers, watchmen, gunners, cleaners, water-boys, chowkidars, bhistis, malis, garden coolies, sweepers, (other servants).

147. Mr. R. Gupta's award included the following in the general scale Rs. 30—2—60:

Farrashes, sweepers, cash coolies, watermen, malis, bearers, methars, punkha pullers, impositors, ink-men, messengers, etc.

Special mention was made in the said award of the following:

Categories	Scales of pay
Daftries and khansamas	General scale *plus* Rs. 2
Food stores salesman, head cash coolies, record suppliers.	General scale *plus* Rs. 5.
Compositors	Rs. 45—3—90.
Depuy head messengers	Rs. 50—3—80 (outside Calcutta).
	Rs. 60—3—90 (in Calcutta).
Head messengers and lorry drivers	Rs. 60—3—90 (outside Calcutta).
	Rs. 70—3—100 (in Calcutta).

148 Mr. Justice Divatia laid down that chokras below 18 years of age should be paid Rs. 25 per month in big banks and Rs. 19 per month in small banks, that sweepers, scavengers and hamals not working as peons should get Rs. 20—2—40 in big banks and Rs. 15—1—30 in small banks and that havaldars and jamaders should be in the scale of Rs. 65—3—80.

149. In the Central Government Secretariat, jamadars and daftries are paid on the scale of Rs. 35—1—50 and in the Bombay Government Secretariat naiks and havildars are paid respectively on the scales of Rs. 40—1—50 and Rs. 50—1—55, the latter being reduced in the mofussil offices to Rs. 35—1—45 and Rs. 45—1—50. In the Madhya Pradesh Secretariat the scale for jamadars and chopdars is Rs. 25—1—(B)—30—1—40. In the Madras Secretariat chobdars and daffadars are paid on the scale of Rs. 22—½—30 and head chobdars at Rs. 35. Under the Punjab (India) Government the scales for daftries is Rs. 25—1—30—1—35; in the Orissa Secretariat the scale for jamadars, orderlies

and daftries is Rs. 24—1/2—34; and in the Assam Secretariat daftries and jamadars and chaprasis are paid on the scale of Rs. 28—1—40. These scales should be considered in conjunction with the dearness and other allowances, which, as we found in Chapter V, do not appear to have been fixed with reference to any particular basic year or to bear the same proportion to the basic pay as the corresponding allowances of a clerk working in the same office would bear to his basic pay. The total monthly emoluments in the initial year vary, *e.g.*, in the case of havaldars, jamadars, etc., between Rs. 85 in the Bombay Government Secretariat (Rs. 80 in the Central Government Secretariat) and Rs. 40 in the Orissa Government Secretariat, the emoluments in Government offices outside the Secretariats generally being somewhat less.

150. In some of the Bombay awards there are only two classes of the subordinate staff: (1) hamals and sweepers, who get less than the ordinary rate and (2) sepoys who get paid at the ordinary rates, hamals being sometimes classed with sepoys or peons. In some awards special grades are given for sepoys and naiks as distinguished from peons, watchmen, havaldars or havildars, head peons, drivers and liftmen.

151. We lay down the following scales of minimum special allowances for certain categories of the subordinate staff:

Categories of employees	Situation (A)		(B)		(C)		(D)	
	Rs.	A.	Rs.	A.	Rs.	A.	Rs.	A.
Daftries	2	0	1	8	1	0	1	0
Head cash mazdoors (coolies)	5	0	4	0	3	0	2	8
Watchmen, chowkidars or cash darwans	5	0	4	0	3	0	3	0
Armed guards	10	0	9	0	8	0	7	0
Havaldars, jamadars, dafadars, naiks and head peons.	15	0	12	0	10	0	8	0
Drivers and head messengers	30	0	25	0	20	0	18	0

152. Finally, in order to prevent misunderstanding, we wish to make it clear that the expression "special allowance", wherever it occurs in this award, unless the context shows otherwise, should be deemed not to include any of the allowances dealt with in Chapter XIV of this award, *e.g.*, deputation or halting allowances, hill allowance, fuel allowance, officiating allowance, scarcity allowance and local allowance.

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CHAPTER XII

General considerations—Retrospective effect

SECTION I

General Considerations

153. In this Chapter we propose to deal with a few general considerations that arise on the subjects of scales of pay and dearness allowance, and also the question of giving retrospective effect to the new scales of pay, etc.

154. We have laid down scales of the basic pay for different classes of banks and areas. It is our intention that the aggregate of such pay and of any special allowance (see Chapter XI) and officiating allowance (see Chapter XIV) should, in the case of each employee, be regarded collectively as his pay and should thus form the basis on which (*a*) dearness allowance, (*b*) bonus, (*c*) gratuity, (*d*) contribution to the provident fund and (*e*) pension, if any, should be calculated.

155. It should be remembered that the scales of pay and dearness allowance that we have laid down represent the minimum to which an employee would be entitled and that they are not intended to fetter the discretion or power of any employer to give his employees, or any of them, better salaries of wages or a higher dearness allowance, or additional allowances or benefits not mentioned in our award. A controversy arose in 1915 in Australia as to the effect of an award of the minimum wage. When some of the men concerned refused to accept work which was offered at the minimum rate, their action was denounced as a "strike". In the case of *Waterside Workers*[1] the minimum prescibed was 1s. 9d. per hour, the work of the employees, who were casual labourers, being to carry cargo from incoming vessels at ports. The workers had claimed that wheat should be treated as a special cargo, and that a person carrying it should be entitled to 2s. per hour. The Court had refused this claim, but certain members of the union had succeeded with some employers in enforcing the payment of 2s. per hour. Under the exigencies of the war the States had formed "wheat pools" and their Governments were willing to pay the extra 3d. per hour but did not want to contravene the decision of the Court. The Court then reassured the employers of the "wheat pools" thus: "It is not necessarily an unjust extortion for a man or a class of men who make wheat-carrying a speciality to demand more than the minimum rate for his or their services. It is quite in harmony with the principle of freedom of contract subject to the minimum wage that an employer should seek by extra wage to attract men who, as he thinks, will give him extra speed and efficiency.....I can only say plainly that there is no breach of the award or impropriety in a man refusing his services in loading wheat unless the employer pays him more than the minimum. It is all a matter for contract". The doctrine propounded in this quotation later received confirmation from the High Court (*Waterside Workers*, 21 C.A.R. 543); and Mr. Justice Higgins has made the following observations in support of it; "It would, of course, be an astounding position if, while the employer remains free to give or to refuse employment at the minimum rate, the employees were bound to take employment at that rate. The employer has the formidable power of refusing to give work to any particular man, the power even to put an end to all his own business operations; why should not the employee be free to refuse to take work? A minimum rate is in effect a restraint upon the

1. 9 C.A.R. 315; 10 C.A.R. 1.

employer; a maximum rate would be in effect a restraint upon an employee. The Act gives power to prescribe a minimum rate, and the object of that power would be defeated if a man who thinks that his services are worth more than the minimum rate were not free to hold out for a higher rate".

156. Therefore, if any bank has in force better scales of pay than those laid down by us, the result of this award would not be to supersede such scales and introduce those now prescribed in their stead, unless of course, that be the necessary legal consequence of the operation of such a provision as sub-section (2) of section 6 of Act LIV of 1949 and action taken by the Central Government thereunder. Nor would any bank be precluded from giving an employee a special promotion entitling him to more than one increment in a particular year or to wages at a higher rate than those laid down. In cases where the question of the applicability of an existing scale of pay, on the ground of its greater attractiveness, is not free from doubt, it would seem advisable for the bank to give its employees, or such of them as are concerned, an option, as soon as possible after the publication of this award, of saying whether they would rather come under the existing scale or scales of pay; and on such option being exercised, action may be taken accordingly. But it must be understood that the pay scales and scales of dearness allowance laid down here together form a combined scheme and no employee should be held entitled, *e.g.*, to choose the old scale of pay and the new scale of dearness allowance, or *vice versa*, though no one would be precluded from entering into any agreement with his employer on such lines or any other lines regarded as suitable or advantageous.

157. On the subject of cost of living index figures a word or two would appear to be called for. Wherever we have mentioned such index figures, we have referred to the figures published by the Central Government in the Indian Labour Gazette[2] or the Monthly Abstract of Statistics[3]. If it should so happen at any time in future that such publications or the publication of such figures cease or be suspended, we have no intention that the payment of dearness allowance, for instance, should also be suspended. In such an event it would be proper if the average of the cost of living index figures for the previous three months for which they have been published is made to do duty for the actual figure, and we direct accordingly.

158. We also wish to make it clear that we have been obliged to deal with the subject of special allowances in the cases of certain categories of offices or employees, as certain banks might neglect to pay its specially qualified or experienced employees any such allowances or pay them lower allowances than those fixed by us. We have not sought to impose any conditions on class C banks, with regard to this subject, but that is because their resources are poor. This circumstance should not be used by such banks of that class as may be able to bear the burden to deny any such allowances altogether to the kind of employees in question. We are also aware that there is a wide discrepancy between different banks as to the amounts actually earned by such employees. Some of them have been placed on special scales of pay, and such scales differ greatly from bank to bank and from area to area. It is not our intention to interfere with such special scales or grades of pay, where they are more favourable to the employees. Our object in laying down special allowances for some of these categories is to see that their special skills or the responsibilities which their jobs or offices involve are given some recognition by the payment of certain

2. Published by the Ministry of Labour.
3. Published by the Ministry of Commerce.

minimum allowances, that is to say, that no bank should pay less than what we have laid down.

159. It is necessary for us to consider the cases of (a) part time employees and (b) apprentices. There are certain employees in some banks, *e.g.*, sweepers, who, it is stated, do not work for the whole day. There are, besides, certain persons who intend appearing at certain examinations and who have to get a certificate showing that they have worked at certain banking institutions and they are generally allowed to work part time. In such cases it would not be proper for the employees concerned to demand pay of wages at the rates laid down by us. We direct that if such an employee ordinarily works for seven hours or less per week he should be entitled to get one-third of the appropriate rate of pay or wages and dearness allowance, that if he ordinarily works for more than seven but for not more than fifteen hours per week he should get one-half, and that if he ordinarily works for more than fifteen but not more than twenty-four hours per week he should get two-thirds, of the appropriate rate of pay or wages and dearness allowance, the calculations being made up to the nearest eight annas.

160. As to apprentices, they join an institution for their own benefit and in their own interest, and the latter does not always get work from them to any appreciable extent. It is also difficult for us to hold that they are employees, though some of them may be employed after the period of their apprenticeship is over. We leave it to the discretion of the banks to decide whether they should be paid any wages and if so at what scale.

SECTION II.

Retrospective effect.

161. We have now to consider the question of giving retrospective effect to the directions contained in this award. Different unions have pressed for different dates with effect from which they ask that the award should become operative. It seems to us necessary to bear in mind that in a number of banks the pay scales, etc., that we have laid down will be more onerous than the existing scales of pay, etc., and that in view of the peculiar nature of the banking industry the difficulties of introducing the new scales should be obviated as much as possible. Our intention, therefore, is to subject the banks concerned in connexion with the question of introduction of the new scales, to as little pressure and strain as possible. We think that whatever be the merits of the question in the abstract, the banks in class A should be required to carry out our directions regarding scales of pay and allowances with effect from a date six months prior to the publication of this award, and that the award should apply to banks in class B with effect from the date of such publication. The result of giving six months retrospective effect to our directions as to scales of pay and allowances as regards the class A banks will be to substitute such scales for those existing in the case of such banks with effect from the date which was six months prior to the date of the publication of this award, the other directions contained therein (except those which would be consequential to our directions as to scales of pay and allowances) taking effect from the date of such publication; and for purposes of increment, etc., in such banks the first year under our award will be deemed to be completed six months from the date of such publication. With regard to the banks in class C, many of them should, we think, have some

time to adjust themselves, or to decide if our directions are too onerous or to close down their uneconomic units, or to determine whether they should seek amalgamation with other banks. For this purpose we think that it would not be improper on our part to say that our award should become operative, in the case of such banks, with effect from six months after the publication of this award. We direct accordingly. We further direct that till our directions about pay and allowances become operative, the banks concerned shall be guided by the provisions of the present awards, interim or otherwise, if any, applicable to them immediately prior to this award. We also direct that all arrears of pay, allowances, etc., due up to the date of the publication of this award shall be paid within three months from such date.

162. The authorities of the Punjab National Bank have tried to convince us that in view of the losses sustained by it during the troubles consequent upon the partition of the country in 1947; it deserves to be given special concessions, *e.g.*, by being classed as a C bank, or the award not being made applicable to it for a certain period. We have heard both the management and the employees on this question but have not been satisfied that any such relief as is asked for is necessary.

163. Finally, a certain number of banks have entered into agreements with their staff regarding pay-scales, etc. We wish to make it clear that in case our directions conflict with such agreements with regard to any matter dealt with by us, our directions will prevail over such agreements, subject to the principles formulated by us in Chapter XXVIII.

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CHAPTER XIII

Certain alleged difficulties of Banks

SECTION I

General Economic Situation

164. Several big banks have relied on the following general factors as showing that the general economic situation in the country is deteriorating and is leading to a general decrease in the income or profits of the banking companies; *viz.*, shrinkage of deposits, difficulties in industrial expansion, difficulties in capital formation, shrinkage of investments, decreased incentives for savings, the uncertainties of external trade, difficulties in obtaining and replacing machinery, the burden imposed on industries by industrial tribunals' award, the general need for efficiency, economy and rationalization and the effects of devaluation. Figures of some banks from their balance sheets of 1949 show that although the gross earnings of banks have been maintained, the net profits, as a rule, were reduced during 1949. It is reported that the average fall registered amounts to 8% over 1948; the small banks appear to have had a bigger fall. The Exchange Banks, however, have proved an exception to this rule; but in the absence of any data it cannot be said that the general tendency has not been reflected in their operations and finances so far as India is concerned. The questions raised by banks are no doubt important and difficult and can be adequately dealt with only by experts and trained economists. But as they have same bearing on the matters at issue before us, we shall try to understand and consider a few general aspects of the economic situation in the country with reference to such matters as do not appear to us to admit of a great deal of controversy.

165. It is common knowledge that the inflationary factors that were brought into being by the exigencies of the last war resulted in raising prices and profits to an abnormal extent while rationing and price control helped to add to savings. A part of the extra money thus created found its way into bank deposits and public loans, a part went into assets like lands and buildings, increased taxation and excess profit tax, and a part into black markets which sprang up everywhere. The prevalance of low interest rates and the uncertainties of war finance encouraged people to hoard resources in the form of currency notes and bank balances a part of which was used in extensive black market operations bringing in profits at unprecedented rates. In March 1945 the demand deposits of the banks had risen by over 400 per cent and the banks cash and the note circulation by about 500 per cent and wholsale prices had risen by about 250 per cent above the pre-war levels. At the end of the war there was an accession of almost unrestrained optimism in the investments, market and banks deposits also continued their upward trend.

166. The partition of 1947 and the events connected therewith brought about large losses of wealth, considerable unemployment and great unproductive expenditure of public funds. In 1947 and 1948 bank deposits began to show a falling trend, which became more marked in 1949; but there was an improvement in the banks loans and advances. The purchasing power of the people improved and prices, which had become fairly stable between 1943 and 1945, went on rising. Savings seem to have fallen substantially since this time, but

this was not due to a fall in the income levels but largely to an increased tendency to consume, apart from the factors of heavy taxation and higher cost of living. Spending has since been stimulated by the motive to evade high taxation and to prevent the detection of illegal profits. It also seems that a larger part of the national income is distributed among the consuming classes whose "liquidity preference" has been communicating itself, for various reasons, to other classes also. In short, in this period beginning with the attainment of independence and ending with the earlier part of 1949, the tendency in our economy apart from temporary fluctuations, was towards a fall in savings and a decrease in investments, a fall in the profits of industries, and an increase in the volume of purchasing power. Certain factors have of late been counteracting these trends. We notice some of them below.

167. Immediately after independence was attained, the Government of India, in the first flush of enthusiasm, embarked on certain policies and experiments which in the light of later experience have had to be abandoned, postponed or modified, *e.g.*, the removal of food-grains control and the initiation of development projects or programmes beyond the capacity of the country. The mistakes underlying such policies were gradually realised and a sense of realism developed in an increasing measure. This, in turn, led gradully to a restoration of public confidence in the capacity of Government to deal more effectively with the economic problems facing the country. As will be shown below, trends towards improvement in the different sectors of our economy became increasingly noticeable with the lapse of time, and of the factors responsible for this result the policies and attitude of Government have not been the least important.

168. The more conservative and helpful attitude of Government towards, industry, as shown by the concessions made to industry and the assurances given from time to time with regard to measures like the Industries Regulation Bill, their efforts towards internal economy, the halting of long-term plans involving initial unremunerative expenditure and a more rational control of our external trade, as well as the comparative stabilization of prices and the cost of living during some time past, have encouraged even industralists to make optimistic utterances [1].

169. As to production, according to the index figures of industrial production in India published by the "Eastern Economist" and those of Indian industrial activity published by "Capital" in recent months; though the peak figures attained in 1945-46 have not since been attained, the present day figures cannot be regarded as unduly low or unsatisfactory. According to the White Paper issued by the Finance Ministry along with the last budget, industrial production in definitely showing an upward trend. The following instances of increase in production in 1949 over these for 1948 are taken from the said paper:

Steel from 8,54,000 tons to 9,25,000 tons,
Cement from 1.5 million tons to 2 million tons,
Coal from 29.9 million tons to 31.09 million tons,
Paper from 97.9 thousand to 103.8 thousand tons,
Power alcohol from 3½ million gallons to 6.7 million gallons,
Superphosphates from 21,000 tons to 43,000 tons,
Diesel Engines from 1025 to 2048.

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1. See, for instance, the speech of Mr. G. D. Birla, before the Federation of Indian Chambers of Commerce of the 12th March 1950.

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170. In cotton textiles and jute manufactures, production showed a downward trend mainly because of difficulties as to the import of raw materials as shown by the following figures :

	1948	*1949*
Cotton Textiles (million yards)	4,320	3,910
Jute (thousand tons)	1,091	946

In view, however, of the recent agreement between India and Pakistan the prospects of the import of cotton and jute from Pakistan are likely to improve. "The jute industry, one of India's biggest earners of foreign exchange and one most seriously affected by the exchange deadlock with Pakistan, has taken prompt and vigorous measures to react towards self-sufficiency in raw materials in the shortest possible time[2]." As regard other industries noticeable improvement occurred in the production of electric motors, bicycles, sulphuric acid, transformers and electric lamps, while the 1948 levels were maintained in the production of motor car batteries, cigarettes and matches. Imports of machinery appear to be definitely on the increase, reflecting an improvement in industrial activity as shown by the following figures prepared on the basis of those published in the "Times of India" of the 22nd April 1950 :

In Crores (per month)

1946-47	1947-48	1948-49	1949-50
2.5	4.5	6.5	9

"The bicycle industry is being expanded and so are the manufacturing units for caustic soda, soda ash, superphosphates, sulphuric acid, diesel engines and power alcohol." An important factor helping industrial activity in general has been the improved position of rail transport, as shown by statistics published by the Central Government in "Monthly Survey of Business Conditions in India."

171. As to prices, according to the White Paper there was an appreciable fall in the index for whole-sale prices from December 1948 to March 1949. This trend was reversed in April 1949 and prices rose for 5 months. Since then there has been a noticeable drop. Important commodities which go to make up the cost of living have registered a fall (food articles, for instance, having declined by 23 points). On the whole owing largely to Government policy as regards price control, external trade and incentives for increased domestic production prices appear to have attained or to be attaining a fair degree of stability. It may also be pointed out that the cost of living indices of the principal cities in India do not show much variation during the year 1949. The Bombay, and Madras indices, for instance, stood at 295 and 333 in November 1949 compared to 301 and 331 respectively in January 1949 (base 1939--100). The Kanpur index has, however, shown a great fall 506 to 451 during the same period. According to the statistics collected by the International Labour Office during the 12 months from December 1948—January 1949 to December 1949—January 1950, the cost of living decreased in 11 out of 34 countries and amongst these eleven countries, France, Switzerland, Italy, United States and India are prominent (*vide Eastern Economist* of April, 28, 1950, page 637).

172. In the field of management—labour relations the improvement noticed in 1948 was not only maintained but further increased in 1949, as the following figures will show :

Year	No. of disputes	No. of workers involved.	No. of man-days lost.
1947	1,811	1,840,784	16,562,666
1948	1,259	1,039,120	7,837,173
1949	914	684,188	6,380,887

2. The *Times* Review of Industry, April 1950, page 71.

Out of the 6,580,887 man-days lost in 1949 strikes accounted for the loss of 3,410,453 man-days and lock-outs for the loss of 3,170,434 man-days according to a statement issued by the Ministry of Labour [No. Gen. 8 (11) dated the 23rd March 1950]. "In this result a special tribute is due to Labour the large majority of which has placed the country's interest before its own".

173. The end of 1949 recorded an appreciable reduction in industrial disputes as compared with the earlier period of that year. According to the statistics of the *Labour Bureau*, there were 78 disputes during December 1949 as against 90 in November, the number of workers involved respectively being 55,192 and 104,510 and the number of man-days lost being respectively 416,131 and 451,200. Of the 78 disputes in December, 12 were lock-outs, involving a loss of 277,757 man-days (67% of the total loss), 11 of them being in West Bengal. The corresponding figures for January, February and March 1950 were as under:

	January 1950.	February 1950.	March 1950.
Disputes	100	88	79
Workers involved	76,152	46,546	42,342
Man-days lost	231,644	337,603	487,174

Lock-outs during March 1950 numbered eight and accounted for a time-loss of 387,921 man-days or nearly 80 per cent of the man-days lost during the month. Bombay showed an increase in March over February in the number of disputes as well as in the number of man-days lost.

174. As to external trade, during the period under consideration, import control was at first liberalised. It would seem, with a view to utilizing our sterling balances. This led to a large volume of imports resulting in excessive withdrawal from the said balances. Such imports served in general to keep in check inflationary forces and the import of raw materials and capital goods added to the strength of our economic structure. Import trade, besides, provided profitable outlets to the banks for short-term investment of their resources. It, however, led to an adverse balance of trade which had to be corrected by the tightening of import controls and by the encouragement of the export trade. The total value of exports during the year 1949 was 428 crores as against 419 crores in 1948. "What is more satisfying perhaps is the fact", said the Commerce Minister, addressing the Export Advisory Committee on the 11th February 1950, "that the year 1949 was a record year both in terms of quantity and in terms of value for the export of a number of commodities, namely, tea, tobacco, cotton waste, black pepper and spices in general". As to the export of cotton textiles, which had made "a very good contribution to our earnings of foreign exchange" the Commerce Minister said that the improvement in export, which started about the middle of 1947, received an impetus after devaluation. In the third quarter of 1948 exports to hard currency areas touched the lowest level of Rs. 21.31 crores; but since devaluation the last quarter of 1949 recorded exports to such areas of the value of Rs. 44.41 crores, an increased of over 100 p.c., although the amount of dollars earned has suffered reduction to the extent of the devaluation. The export of cotton piecegoods in 1949 was 487 million yards as against 334 million yards in 1948.

175. According to the White Paper and the Finance Minister's Budget Speech, exports had improved and the sterling balances had risen to Rs. 832 crores by the end of January 1950, following the devaluation of the rupee, from Rs. 820 crores in June 1949 and Rs. 776 crores in the 1st week of September. Exports in the last quarter of the year (1949) rose to Rs. 139.97 crores against

the quarterly average of Rs. 107.08 crores in 1948. According to the "Times of India" of the 22nd April 1950, devaluation has made Indian cloth nearly the cheapest in the world with the result that export of Indian cloth are expected to hit "an all-time high" during 1950, with an officially estimated shipment of cotton textiles worth well over Rs. 100 crores. This figure compares very favourably with the country's foreign exchange earnings of nearly Rs. 39.84 crores from cloth exports during 1948-49 and Rs. 20.48 crores during the previous financial year. The view expressed above is perhaps too complacent and does not appear to take sufficient note of factors like the impending Japanese competition and the still unresolved international difficulties in the fields of commerce and exchange.

176. Below are given figures regarding imports and the exports of Indian merchandise during the period April 1949 to May 1950:

VALUE OF THE TRADE (RUPEES IN LAKHS)

	Imports	Exports Indian merchandise.	Balance, deficit or surplus.
1949 April	51,80	32,16	—19,64
May	64,12	27,99	—36,13
June	59,93	28,50	—31,43
July	56,92	29,30	—27,62
August	51,00	33,90	—17,10
September	38,63	34,04	—4,59
October	58,54	34,89	—23.65
November	43,17	51,59	+8,42
December	35,78	51,01	+15.23
1950 January	36,85	47,49 (a)	+10.64
February	26,56 (b)	45,33 (a)	+18,77
March	30,20	46,20 (a)	+16,00
April	38,55	31,29 (a)	—7,26
May	48,72 (b)	33,97 (a)	—14,75

The figures where surplus balances begin represent periods in which stringent import restrictions were imposed, accumulated demands were being supplied and certain countries became busy with stock piling programmes (*e.g.*, relating to manganese and mica). Since April last, however, we seem to be again having deficit balances, so that we may say again that there is not a great deal of room for complacency as regards our external trade. At the same time there do not appear to be sufficient grounds for taking a pessimistic view about the future.

177. In a recent review of our foreign trade, the *Times of India*, dated the July 12, 1950 observed, "An all-time record total of Rs. 1,043 crores, we reached in India's foreign trade in 1949-50, an increase of Rs. 92.15 crores over the previous year. The overall adverse balance of trade in merchandise amounted to Rs. 77.81 crores, as against Rs. 103.91 crores in the previous year, showing a decline of Rs. 26.10 crores." The review further stated that compared to 1948-49 exports improved in 1949-50 by 13% while imports showed a rise of 8.2%. A phenomenal increase was recorded in the export of spices from Rs. 5.46 crores in 1948-49 to Rs. 18.18 crores in 1949-50 and of cotton yarn from Rs. 1.3 crores to Rs. 11.3 crores. Exports of cotton manufactures reached a record, while tea exports increased in value from Rs. 63.6 crores to Rs. 72 crores. Imports of machinery of all kinds were the highest in India's history, amounting to Rs. 105.51 crores.

(a) Including re-exports.
(b) Excluding imports of foodstuffs on Government account awaiting adjustment.

178. The problem of capital formation in India, however, continues to remain difficult. The main reasons for this are high taxation, the shift in the distribution of incomes, its consequences on savings and investment with special reference to the "liquidity preference" of large sectors benefiting by such distribution and the uncertainties as to income-tax assessment in many cases pending before the Income-tax Investigation Commission. During war time and the early post-war years industrial production was largely kept up by the employment of extraordinarily high profits, a very large part of which represented profits unrelated to productive efficiency. With the comparative stabilisation of prices, however, the possibility of realising unusually high profits is preceding. Industry will now have to reconcile itself to more normal or perhaps more stringent conditions than have existed during the last decade and settle down to wrestle with its internal weaknesses and defects, in as realistic and resolute a manner as possible. The Finance Minister has revealed that the terms which India can give to foreign capital are not likely to attract private American investment and that it was "neither desirable nor feasible", to meet the country's requirements through international loans. The amount of foreign capital invested in Indian industries during 1948 and up to September 1949 was only about 6 crores.

179. The difficulties in the formation of capital are reflected in the fall in the stock exchange values from the boom levels of 1946-47. The security price indices have fallen steeply since; but those levels had every appearance of an abnormal and temporary speculative activity. The table given below shows the extent of fall since 1946-47:

(Base 1927-28 = 100) [3]

Year	Government Securities.	Fixed yield industrials.	Variable yield industrials.
1946-47	120.4	197.8	268.6
1947-48	117.2	169.9	191.9
1948-49	114.7	156.9	162.4

During the last year, however, the fluctuations in security prices and the prices of shares have lain within a narrow compass, suggesting definite signs of stabilization in the investment market. The decline in the stock market values appears to have been the prelude to greater economic stability and to the revival of normal and healthier conditions and modes of investment.

180. As to the effects of devaluation, according to the White Paper, devaluation provided the Government of India with an opportunity to review the entire policy and the "eight point programme" was evolved. Devaluation does not seem, as in the United Kingdom, to have had the effect of appreciably raising the internal prices, and it appears to have noticeably stimulated our exports. Failure by Pakistan to devalue her rupee has no doubt created complications and trade between the two dominions was brought to a deadlock, to resolve which attempts have been and are being made at the highest levels.

181. We end this review, inadequate as it is, by reminding ourselves that no country today is free from difficult economic problems arising out of the last war, and that none can ignore the fact that our Government and our industries have still to solve many intricate questions of policy, management and administration. On the one hand are the following factors against taking a too optimistic view of the present trends in our economy; our budgets (Central and States)

3. Report on Currency and Finance for the year 1948-49 (published by the Reserve Bank of India), page 197.

and the balance of our payments are still generally deficit in character; the population is steadily rising; production, both agricultural and non-agricultural, is not increasing as much as the circumstances demand; the pressure on the standard of living, as a whole, remains substantially unrelieved, although certain sections are being unduly benefited while other sections are haunted and harassed by unemployment. On the other hand there is no sufficient evidence that we are gradually drifting into a situation worse than the present; there are indications that our economic position and trends are pointing towards stabilization; and that on the whole the rupee value (as distinguished from the real value) of our *per capita* annual income in steadily rising; from Rs. 204 in 1945-46 it rose to Rs. 228 in 1946-47 and the estimated income for 1948-49 was Rs. 2724. Although it is never very safe to make general assertions regarding the economic possibilities of a country which lie in the womb of the future, we think that we should be justified in saying that we have found no sufficient reason for believing that our present financial and economic circumstances call for such dark or dismal forebodings as to affect materially our conclusions on the subject matters with which we are immediately concerned.

SECTION II

Banking Trends

182. From the point of view of the banks, however, the most important problem is the serious fall in deposits, which have been called the raw material of the banking industry, with the consequent possibility of serious inroads into their earning capacity. We are aware that this question cannot be discussed in isolation and that it is interrelated with the entire economy of the country, but as great emphasis has been laid on it during the proceedings, we shall make an attempt to consider this question in as general terms as possible.

183. It has been brought to our notice that deposits of scheduled banks, which at the end of 1947 stood at Rs. 936 crores rose to Rs. 987 crores in July 1948, but came down to Rs. 934 crores at the end of 1948 and to Rs. 833 crores at the end of 1949. We give below the figures of annual averages of the total deposits of such banks from 1938-39 to 1949-50 as well as other relevant figures [5]:

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4. "National Income of the Indian Union Provinces, 1946-47" published by the Government of India, Ministry of Commerce, and the recent press note on the subject.

5. Source: Reserve Bank of India's Annual Reports and Monthly Bulletins.

Year	No. of Banks	Demand deposits.	Time deposits.	Total deposits	Cash and Balances with Reserve Bank	Advances	Bills discounted.	Total of advances and bills.	Ratio of figures in last column to deposits
								(Rupees in Lakhs)	
1938-39	51	123,81	103,30	227,11	22,26	111,34	4,60	115,94	51.05
1939-40	55	132,64	101,95	234,59	24,03	121,47	4,97	128,44	53.90
1940-41	58	155,79	161,19	256,98	44,04	117,70	3,69	121,39	47.24
1941-42	58	200,13	103,57	303,50	45,31	115,32	4,84	120,16	39.59
1942-43	61	306,28	104,21	410,49	63,70	95,68	2,18	97,86	23.83
1943-44	75	456,63	142,78	599,41	84,20	156,14	6,69	161,73	26.98
1944-45	84	584,80	194,12	778,92	116,56	224,22	11,16	235,38	30.22
1945-46	91	654,83	259,52	914,05	124,71	265,07	16,05	301,12	32.94
1946-47	96	725,54	323,11	1048,65	122,36	405,32	21,32	427,71	40.79
1947-48	101	708,65	343,89	1050,64	140,73	427,54	16,82	444,36	42.30
		(74,66)	(28,39)	(10,525)	(10,25)	(39,40)	(100)	(40,40)	
1948-49	94	674,56	303,88	978,44	114,14	424,85	16,44	441,29	45.10
		(83,74)	(18,56)	(10,230)	(15,20)	(34,42)	(70)	(35,12)	
1949-50	94	597,79	272,59	870,38	100,32	423,74	15,35	442,09	50.79
April, 1950	95	698,90	267,87	866,77	83,06	486,70	14,43	481,22	55.52
May, 1950	95	589,62	272,04	861,66	85,88	481,71	11,92	473,63	54.97
June, 1950	95	534,56	274,11	858,67	98,84	448,44	11,11	459,55	53.32

NOTE.—Data relate to undivided India up to 1947-48, those for 1948-49 are for the Indian Union. Figures shown in brackets which relate to Pakistan are averages for the periods 15th August 1947 to March 1948 and April to June 1948 in respect of the years 1947-48 and 1948-49.

184. The deposits which accumulated during the war years and sometime later are no doubt to be regarded as excessive in the sense that they were abnormally large in relation to both the capital structure of the banks and the outlets which were available to the banks for the utilization of their funds in productive enterprises; and it was inevitable that business houses which deposited the moneys which they could not put to such use would later withdraw appreciable parts of them for purposes of successful investment. That by no means can be regarded as an undesirable development, and banks whose interests coincide with those of the national economy as a whole should be last to bewail or complain about such development.

185. It will be seen from the table given above that in the six war years the total of demand and time liabilities increased from 234.59 crores in 1939-40 to 778.92 crores in 1944-45, an increase described as "phenomenal in the history of joint stock banking in India" in the Annual Report of the Reserve Bank of India on Currency and Finance for 1945-46. Between July 1939 and June 1945, 147 new banks were started out of which 82 were started after June 1943. As against the slow increase in the number of scheduled banks between July 1935 and September 1939—from 50 to 59—the number of such banks increased between September 1939 and September 1945 from 59 to 87. During the said period there was, besides, "too rapid an expansion of branch banking, particularly among the smaller banks, without careful preliminary prospecting in each case in the light of existing banking facilities, the size of available business and the likely changes therein, the overhead costs and probable scope for reasonable earnings." 6

186. It will be noticed that the ratio of the total of advances and bills discounted to the total of deposits, which fell to the abnormally low figure of 23.83 in 1942-43 is now slightly higher than the pre-war (1938-39) ratio of 51.05, and this, again, can hardly be regarded as an unhealthy or undesirable development.

187. The following figures were recently published in the "Eastern Economist":

Share in Annual National Income (amount in Rupees Crores)

Sector	1939-40		1947-48		1948-49		Change in 1948 over 1939		Change in 1948 over 1947	
	Amount	Percentage of total.	Amount	Percentage of total.	Amount	Percentage of total.	Amount	Percentage of total	Amount	Percentage of total.
Agricultural and allied occupations.	95,27	49.5	212,95	54.0	246,52	55.0	151,25	+5.5	33,59	+ 0.0
Industrial sector.	37,00	19.2	98,00	24.9	115,45	25.7	78,45	+6.5	17,45	+ 0.8
Tertiary sector.	60,26	31.3	83,23	21.1	86,65	19.3	26,39	—12.0	3,37	—1.0
	192,53	100.0	394,21	100.0	448,62	100.0	256,09	..	54,41	..

It was said that the above figures showed that there had been an enormous shift in the capacity to save the middle classes who formed the bulk of investors and depositors having become poorer to the extent of 40 per cent and the sector which had newly acquired great purchasing power showing no disposition to fill the vacuum.

6. Annual Report of the Reserve Bank of India on Currency and Finance for 1945-46.

188. There may be substantial truth in those inferances, though they may not contain the whole truth about falling deposits. Factors like the post-partition riots leading to widespread loss of property and the consequent want and destitution among large masses of people, the uneconomic closure of banks' branches in Pakistan, the banking crisis in Bengal, as well as liberalization of the import policy by Government and stricter collection of income and other taxes, must also have played their part in reducing the banks' deposits. Many of the factors leading to this result have been temporary, and factors like business concerns drawing upon their past saving in order to finance their schemes of reconversion and expansion are not likely to last indefinitely; and the Finance Minister's statement in the course of his speech while opening the new premises of the Bank of India in Bombay on the 24th April 1950, that "deposits appear to have steadied at a lower level in recent months" is supported by the following monthly figures of the total deposits of scheduled banks during the period from June 1949 to June 1950:

(Rupees in lakhs).

1949	
June	876,35
July	869,45
August	869,54
September	866,47
October	864,86
November	862,85
December	854,66
1950	
January	857,08
February	865,32
March	856,81
April	866,77
May	861,66
June	858,67

189. From the point of view of the banks' income, however, it is not deposits but their advances and loans to trade and industry that are important. In the period subsequent to the country's attainment of independence, in spite of the decline in deposits the advances and loans have maintained a rise, a fact which has helped the banks to maintain their gross earnings in 1949 practically on the same level as in 1948. In the "International Banking" supplement to the Financial *Times of London*, dated the 24th April 1950, it has been observed:

> "The unprecedented demand in India for bank finance during the early part of the past year emphasised the need for more capital, which is required not only for the development of new industries, but also for the rehabilitation of those already established. The great weight of taxation, in India as at home, has made it impossible, in recent years, for many industrial concerns to plough back profits for use as capital reserves, and has forced them to approach the banks for accommodation which formerly was financed from their accumulated surpluses."

In the United Kingdom the percentage of advances and bills discounted to their deposits was between 40 and 45 in September to December 1949; and it is stated in the said supplement, "with regard to the relationship between advances and the national income, the normal sympathetic relationship between the two was rudely severed by the war and——a further expansion in advances would merely help to restore something of that relationship with the national income which has been customary over long periods." The ratio of advances and bills discounted to total deposits in the United Kingdom appears to be rising; during the period

January to April 1950 it rose from 45.27 to 48.05. A similar upward trend in this ratio has been noticeable in India also since November 1949; during the period November 1949 to April 1950 it has risen from 46.30 to 55.52. The "Commerce" in its annual number for 1949 in an article reviewing banking trends in 1949 observed as follows:

> "Although the resources of the Banking system declined during the year, the trend of profits of the system as a whole is unlikely to have suffered any marked set-back, as the commercial advances stood at a high level during the major part of the year and as the rate of interest earned on such advances too was relatively higher than in the previous year. This, however, does not mean that all the banks will be able to show a better profit for 1949 than for 1948. The profits of smaller institutions, as well as those of the new ones, with some rare exceptions, must have suffered a set-back, while the bigger and long-established units should be able to report the same, if not higher profits. In any case, the profits of the latter must be sufficiently large to enable them maintain their dividends for 1949 at the 1948 levels."

It may be stated that most of the banks have maintained their usual dividends in 1949. The article proceeds to say:—

> "The most outstanding feature of the banking trends in 1949, as disclosed by the above analysis, is the return of the disposition of assets to the pre-war pattern. The dominance of Government securities among the porfolios of commercial banks, which began in the war years and persisted for nearly three years after the war, disappeared during the year, and commercial advances reassumed the pride of place they held in pre-war years."

190. The increase in advances and loans, in spite of a fall in resources, does not appear to have lessened the banks' liquidity. The ratio of the total cash held and balances with the Reserve Bank to the total deposits has been well maintained above the traditional level of 10%. In 1949 and 1950 for three months it was slightly below 10%, but otherwise it has fluctuated between 14.07% and 10.08%, the average for 1949-50 being 11.53%. The big banks, however, have shown a greater desire to ensure liquidity and the ratio in some banks is as high as 22.6%. The necessary liquidity may have been maintained partially by the sale of securities which yield a smallar income than advances. The monthly bulletins of the Reserve Bank for March and June 1950, show that investments of scheduled banks, declined from Rs. 456,78 lakhs in November 1948 to Rs. 342,59 lakhs in May 1949 and stood at Rs. 388,19 lakhs in October 1949 and Rs. 361,44 in December 1949.

191. The Big Six in the Indian banking system—the Imperial Bank of India, the Central Bank of India, the Bank of India, the Punjab National Bank, the United Commercial Bank and the Bank of Baroda—dominate banking in India to nearly the same extent that the Big Five in London do in the English banking system. At the end of 1949 their total time and demand deposits (201.1 and 335.12 crores respectively) amounted to 62.8 per cent of the total of the deposits of all the scheduled banks (269.04 and 584.85 crores respectively). They are more conservative than the other scheduled banks in granting loans and advances: their advances and bills discounted amounted to 39 per cent of total deposits against 62 per cent in the case of the other banks. "The impression of soundness is confirmed by the comparison of the figures relating to the

six banks with those of the Big Five and the Clearing Bank of London. The position at the end of 1949 is summarised in the table below :

Balance sheets of the Six Indian Banks compared with those of the Clearing Banks of London

	Percentage of investments to total deposits.	Percentage of advances and acceptances discounts to total deposits.	Cash Ratio.	T.D.R.s. or Treasury Bills.7	Money at call or short notice.
Six Indian Banks	42.0	39.0	16.7	..	.7
Clearing Banks of London ..	24.4	42.5	8.6	12.8	9.28

192. The conclusion that appears to emerge from this brief consideration of the difficulties of the banks is that although the decline in their deposits is substantial, it really represents an aspect of the general economic situation which was inevitable but which need not lead to pessimism. The principal banking institutions were rightly congratulated by the Finince Minister recently on the ability and care with which they had fulfilled thier responsibilities ; and so long as they continue to recognise them and seek to fulfil them with their usual competence and foresight the problems which confront them, so far as one can forsee, are not likely to assume an unwieldly magnitude or become incapable of solution.

SECTION III

Uneconomic Units : alleged difficulties of Banks

193. Some banks in their written arguments have raised the questions of the existing cost of the establishment and the need for rationalization. Industry often speaks of the need for greater rationalization, but apparently it is generally forgotten that rationalization has at least five aspects, namely, reduction in the number of inefficient and insufficiently employed workers, resistance to extravagant demands for wage increase, increase in the efficiency of management, rational curtailment of the expenses at the top and elimination of the uneconomic units in an industry. The last three are often conveniently ignored and undue emphasis is laid on the first two.

194. That there are uneconomic units in the banking industry is apparent from the number of recent bank failures. Exact statistics about them do not appear to be easily available. The two orders of the Government, dated the 13th June 1949 and the 28th September 1949, and the recent order of the 21st February 1950 contain an imposing list of banks which have already gone into liquidation or are under moratorium or are working under schemes of arrangements. According to the calculations to be found in the written arguments submitted by the Manager, United Commercial Bank, Ltd., this number amounts to 62. The banking crisis in Bengal in 1948 and the failure of some fairly big scheduled banks are too recent to be forgotten. The Finance Minister recently mentioned on the floor of the Parliament that 23 banks including one scheduled

7. Included among investments.
8. "Banking in 1949", the Eastern Economist, May 5, 1950, page 679.

bank had failed in 1949. According to the information available to us, in the period from 1934 to 1945 some 700 banks failed, while during the period of 30 years from 1913 to 1943 some 964 banks with a paid-up capital of Rs. 963.2 lakhs failed. During 1913-1918, 95 banks failed while the number of failures in 1919-1925 and 1926-1934 were 94 and 163 respectively.

195. We are, however, more concerned with the causes of such failures than with their number. The early failures were probably largely due to causes inevitable in the formative stages of banking in any country. But it is interesting to note that certain causes appear to have been the common and recurrent features of such failures. The Central Banking Enquiry Committee noticed in their Report (1931) glaring instances of banks with meagre paid-up capital having failed (para 694) and banks whose cost of management was disproportionate to their earnings, maintaining "larger and more expensive establishments than was justified by the exigencies of business at different branches." (Paragraph 547); at page 532 of their Report Mr. N. R. Sarkar, one of the members, pointed out that mismanagement and dishonestly in banking were by no means a monopoly of Indians, that on the eve of her commercial expansion Great Britian had a number of banks failures and that during the period of 1921-1929 the bank suspensions in America numbered 5,642 involving over 1,722 million dollars, while during the first eleven months of 1930 as many as 981 banks, with total deposits of 515 million dollars suspended business. In "Joint-stock Banking in India" by Mr. D. S. Sarkar (1938) the main causes of 95 banks going into liquidation in the period 1913-1918 are given as mismanagement, fraudulent management, bad assets, misleading balance-sheets, high rates of interest for deposits and speculative business, insufficient cash reserve and the performance of non-banking services. In "An Outline of Banking System in India" by Mr. M. V. Subba Rao (1948) the main causes of bank failures are given as inadequate capital, disproportionate ratio between capital and reserves on the one hand and deposits on the other, loans on inadequate security and speculative business, assets held in not easily realizable form, misunderstanding of the real nature of requirements of sound commercial banking and the giving of excessive long term credit. When five scheduled banks in West Bengal recently suspended payment, "Commerce" wrote, in its issue of the 3rd December 1949, "The causes for the failure of these banks are lack of experienced staff, over-extended loan portfolios, reckless policy of branch expansion, declaration of high rates of dividends despite poor reserves, speculative transactions in Government securities and unsound policy in granting loans and advances". The Finance Minister also stated that the main cause of the failure of 23 banks (already referred to) was unsound policy in the matter of investment, bank expansion and deposits. The principal causes in all these statements, it will be observed, are not related to extraneous factors, but to the internal management.

196. There is another aspect of this question of bank failures. In the Reserve Bank's Annual Report on Currency and Finance for the year 1945-46 it was observed (page 93); "There has been, however, a noticeable tendency for too rapid expansion of branch banking, particularly among the smaller banks without careful preliminary prospecting in each case in the light of existing banking facilities, the size of available business and the likely change therein, the overhead costs and probable scope for reasonable earnings. This has resulted in the opening of too many branches in some places." A number of branches of certain banks which appear to have been opened without sufficient foresight and caution have been recently directed to be closed by the Reserve Bank of India in the exercise of its powers under the Banking Companies Act 1949.

197. It is unfortunate that many of the promoters of banks in this country are not sufficiently alive to the requirements of sound banking. Owing to the powers of the Reserve Bank of India of supervision and control vested in it under the said Act, may of the abuses and defects in the management and organization of banks will now, it is expected, be kept in reasonably effective check, and its powers of rendering assistance to banks, when needed, should have a salutary effect. A recent instance of such assistance is the loan of Rs. 87 lakhs given by the Reserve Bank to the Exchange Bank of India and Africa. Sixty-two banks are reported to have been inspected by the Reserve Bank up to the end of January 1950 and their programme for the current year contemplates inspection of 40 more.

198. One way which uneconomic units of the industry may usefully traverse is that of amalgamation into bigger and more economic units, a procedure which, as is clear from a very recent instance, both the Reserve Bank and the Central Government are anxious to promote and encourage. If the scales of pay and allowances now laid down by this award prove too burdensome to particular banks that fact alone, in our opinion, can hardly be used to suggest that such scales are unduly high; it would, in our opinion, rather indicate that the units which are unable to give effect to the award are really uneconomic and ought to consider rationalization through the path of more efficient and economic organization or of amalgamation. We may also point out that the need for amalgamation has been recognized by some of the prominent bankers in their recent speeches.

199. In framing scales of pay and wages we have sometimes had to refer to the scales fixed by Government for their employees. Some of the banks have deprecated such reference as unhelpful or misleading. On this point the following quotation from the report of the Anderson Committee in England of 1923, given in Herman Finer's "British Civil Service", is relevant:

> "Two general considerations about the pay of State servants occur to us. On the one hand the State should hold the scales even between its own servants and those through whose enterprise its servants are paid. On the other hand, the employees of the Crown would have a real ground for complaint if their pay were related to wages in industries only in the time of low wages. If they do not get pay relatively to the boom they must be spared the full severity of the slump. The State as a model employer offers security, a pension, a dignified service and a moderate wage in exchange for the excitement and possibilities of private employment."

In more than one of the written statements of the banks the necessity for their employees possessing the qualities of industry, intelligence, efficiency, honesty and a sense of responsibility in a greater measure than in other industries has been stressed. The Central Bank of India, Limited, for instance, in its written statement has said: "Standards of accuracy and honesty have to be exceptionally high among the employees of the bank and their service discipline must be entirely different from those working in textile or other industry." The United Commercial Bank, Limited, has said in its memorandum of arguments, "Mistakes can be indeed very costly and ruinous in a bank. If a worker in a mill becomes careless the resultant loss from his negligence would be worth a few annas or few rupees; but a mistake in a bank, say by adding one zero to a cheque of Rs. 10,000 may mean a loss of Rs. 90,000. Similarly, entering the amount of a deposit in a wrong account may mean loss of that amount to the

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bank." The question, however, is not merely that of insuring against "mistakes." A wage scale must primarily insure against the feeling among the employees that they are unable to meet the ordinary responsibilities of their life and that they are thus being unfairly treated; it should also be such that they do not succumb to the temptations that often come in their way, oftener than in most other industries; it should further be such as to inspire and maintain their loyalty and co-operation. The last factor is important but is often forgotten or lost sight of by the employers. There is no reason why Government service should, by being regarded as the best kind of service for clerks, continue to attract the best kind of recruits from the middle class. At least the bigger banks should not be satisfied with the second best or a lower class of recruits, and they must be prepared to pay at a scale sufficient to compensate the relative insecurity of tenure and (in many cases) the inadequate retiring benefits inherent in their services, as compared with the benefits and advantages to be found in Government service. The result of the introduction of better scales of pay and allowances than exist at present is likely to be the gradual elimination of inefficieney, dishonestly and deliberate shirking of work to a marked degree, so that in time the introduction of improved methods of organization would be rendered possible.

200. The United Commercial Bank, Limited, has sought to show, by means of comparative statistics, that whereas the ratio of working expenses to gross profit in American banks has been between 56.4% to 59.9% during the 20 years 1929 to 1948 (the working expenses consisting of all items of expenses other than interest paid which is deducted from gross earning to give gross profit), such ratio for all scheduled banks in India in 1948 was 66.3% (being higher for the B and C groups of banks, *viz.*, 70.6% and 65.4% respectively). According to the bank's figures the expense ratio of the B group of banks (the grouping being taken from the Government Order) has gone up steeply since 1944: 60.4% in 1944, 66.8% in 1947 and 70.6% in 1948 "as a result of improvement in terms of employment introduced either voluntarily by banks or because of Awards of Tribunals." The word "voluntarily" refers to the fact that certain banks themselves found the existing scales inadequate and materially increased the precentages of dearness allowance. We have not been supplied with any figures showing the resources or working capital of the American banks. We have little doubt that if we bear in mind the immense gap that separates the resources of our banks and those of the American banks it would become apparent that it is possible for the latter to distribute their overhead expenses in a way which is not possible in the present stage of our banking development. In the Annual Report of the Federal Deposit Insurance Corporation of the United States of America for the year 1946 we find (page 150) that in that year the "current operating expenses" were 61.62 per cent of the "current operating earnings", the percentage being as high as 65.94 in the small banks.

201. The bank has further contended: "Taking the position of A, B and C group of banks as a whole the average ratio of their expenses on staff to gross profit has gone up from 34.6% in 1944, practically the same as for the American banks to 44.1% in 1948, *i.e.*, by 10 points or 30%. Study and analysis of payments to staff by Indian banks, in relation to their income or earning capacity, thus proves beyond doubt that whereas before 1944 they followed the prudent policy dictated by conditions and considerations of the banking industry throughout the world they have deviated or have been compelled to deviate by awards, from the correct principles relating to costs and salaries. Questions of prices and living costs, even assuming they are serious, though in fact they are not, should not be allowed to endanger banking by further increasing their already heavy working and staff expenses."

202. It is, however, to be observed that these percentages are based not only on the salaries and wages, paid to the clerical and subordinate staff but also on the salaries paid to the officers. Figures regarding these items were called for from the banks which raised the question of their capacity to pay, but some of them withheld the information regarding the upper managerial staff on the ground that whereas they had been asked to state the "grades and scales of pay" of those who were not workmen, there were no fixed grades or incremental scales attached to such officers' posts. Persistent allegations have been made by the employees' advocates and representatives that in nearly all banks the administration is top-heavy. Even on the information supplied, however, we have found that the proportion of the total of salaries and allowances paid to workmen to that in the case of non-workmen varies somewhat widely from bank to bank, from 1 : .41 to 1 : 1.03, so that in some cases it would appear that the expenditure on account of non-workmen is *prima facie* on an excessive scale. In the United States of America 521,532,000 dollars were spent on the salaries and wages of employees and 309,106,000 dollars on the salaries of officers in banks in 1946, giving a ratio of 1 : .59.[9]

203. This year for the first time banks have been showing in their balance-sheets, under section 29 of the Banking Companies Act, 1949, the salaries and allowances paid to their managing directors or managers. Some of these figures are high, but whether they are on a scale disproportionate to the resources of the companies concerned, according to the normal standards prevailing in banking business, would be a matter for the Reserve Bank to decide under section 10 of the said Act.

204. It has been contended that a bank's managing director or manager must have very high capabilities or qualifications, for which it must be prepared to pay adequately, and that a few thousands spent on the proper type of a managing director or manager are often justified by the resulting efficiency, increased business and enhanced profits. There is a good deal of force in this argument, but it seems to us fairly obvious that there must be some reasonable proportion between what is spent on the managerial staff as a whole and the resources of a bank. On this point we have found a surprising lack of uniformity or similarity in the ratios of the total amounts spent by way of salaries, dearness and other allowances on the managerial staff and the gross earnings of different banks. In the cases examined by us we have found such ratio to vary from 8.7% to 20%. This, again, appears to us to indicate forcibly that in certain banks the administration can really be called top-heavy.

205. The scales of pay and allowances laid down by us may appear to be too liberal when compared with the scales prevailing in the banks under the previous awards or otherwise. It has, however, to be remembered that these scales have been based on the cost of living in 1944, that at the lowest levels they are based on actual data as to expenditure, etc., which were not fully available to the previous adjudicators and that even at those levels we have not allowed full neutralization of the increase in the cost of living. Some of the previous awards have given a house rent allowance, which is now, on the whole, incorporated in the pay scales; and the fact that the Bombay award has been terminated under the Bombay Industrial Relations Act by large sections of the employees and that several banks have been constrained to raise the rate of dearness allowances granted by the said award would show its inadequacy.

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9. Annual Report of the Federal Deposit Insurance Corporation for 1946.

206. We do not think that in any of the banks in class A the scales of pay and dearness allowance that we have laid down would be found (particularly if reasonable economy is practised at the top) to be disproportionately onerous. The initial amounts in the pay scales may be found to be higher than what are being paid at present, but it has to be remembered, besides such considerations as have been mentioned above, that the dearness allowance payable owing to the rise in the cost of living since 1944 would be comparatively small.

207. Some of the class B banks may be faced with a comparatively large increase on their present wage bills, but some of them also appear to be spending too large a portion of their gross earning on their managerial staff; and we believe that we are justified in requiring them to provide a little more than bare sustenances for their employees, for they should have better capacity than the class C bank which are called upon merely to satisfy the subsistence needs of their workmen.

208. As to the class C banks, some of them may have to face greater difficulties. But in such an event that would, in our opinion, as already stated, be an indication that a bank has been working uneconomically or in an inefficient manner; and the bank should either set its house in order or close down; or it may have to seek salvation in amalgamation with other banks. It is, however, obvious that no unit of any industry should be permitted to employ workmen on a scale of remuneration which is insufficient to meet their bare human needs. It is those needs which have been borne by us in mind in framing the scales of pay for the class C banks.

209. It has been a matter of regret for us that the small banks, particularly the non-scheduled banks, have not come forward to assist us in our inquiries in the spirit which was expected of them, most of them not being represented and many not supplying the information which we required all the banks concerned to furnish to us. Attempts made from time to time to persuade them to inform us of their financial position and difficulties have borne little fruit and a majority of them have remained unresponsive throughout the proceedings. Such of the small banks as have appeared before us have pleaded for special concessions on the ground that otherwise they would be wiped out of existence. We deal with their representations in the next section.

SECTION IV

Small Banks

210. Certain small banks have made representations regarding the difficulties which they labour under and which they have of late been experiencing in an acute form. Those difficulties may generally be summarised as follows:

(1) The average percentage of all expenses to gross earnings of 15 small banks in 1948 was 83.1 per cent as against 59.7 per cent for certain banks of class A and 77.4 per cent for certain banks of class B. In individual cases the percentage in the case of some small banks was as high as 92 or 93 per cent in 1949, leaving little margin for net profit. The percentage of salaries or wages, allowances and interest paid to gross earnings has steadily risen since 1946, swallowing up nearly the whole of gross profit, and few small banks are paying dividends.

(2) The requirements of section 17 of the Banking Companies Act, 1949 regarding a reserve fund will now operate to reduce net profits still further.

(3) The fall in deposits in the case of small banks has been proportionately higher than in the case of bigger banks.

(4) The administration of such banks is not top-heay and there is no scope for economy on that account.

(5) Most branches of such banks are situated in areas not covered by the bigger banks and they, therefore, play a special and useful role of which they should not be deprived.

(6) Such banks are already paying salaries, wages and allowances up to the limit of their capacity and they are incapable of paying more.

211. The main suggestions made by them are as follows :

(1) At least the employees of small banks or branches thereof situated at places with populations of 50,000 or less should be excluded from our award.

(2) Similarly, branches having not more than 10 employees should be so excluded.

(3) Small banks should be exempted from such directions as to welfare items like medical aid and expenses, payment of income-tax as the Tribunal may give.

(4) The scales of pay, allowances, etc., should be fixed with reference to their capacity to pay.

We have provided that a bank of class C need not pay more than such remuneration as is sufficient to meet their employees' needs of bare sustenance, and we have done our best to ascertain on what scale such remuneration should be fixed. In such cases it is not possible for us to fix a lower scale. We have, however, thought it proper to give certain concessions to this class of banks, as follows :

(*a*) We have provided that in the case of branches with not more than eight employees and situated at a place of which population does not exceed 25,000 the scales laid down may be reduced by 8 1/3 per cent in the case of such employees as are permanent inhabitants of the place with residences of their own.

(*b*) We have provided that banks of class C need provide medical aid and expenses for their employees only on a restricted scale as compared with the bigger banks.

(*c*) We have not laid down any special allowances for such banks.

(*d*) We have not only not given any retrospective effect to our award in the case of such banks but have laid down that our directions as to pay and dearness allowance shall become operative with effect from six months after the publication of our award.

212. In our opinion these concessions are all that it is reasonably possible for us to give in the case of the small banks. We have already referred to the annual report of the Reserve Bank of India on Currency and Finance for the year 1945-46 with reference to the indiscriminate expansion of branches during the period in which boom conditions prevailed. This phase of expansion of banks seems, for the time being, to have come to an end, giving way to the phase of consolidation, and in such circumstances the closing down of certain banks and branches, in our opinion, has become unavoidable. That would also be the result, we think, of the requirements as to minimum paid-up capital and reserves contained in section 11 of the Banking Companies Act, 1949, particularly those

as to banking companies which have places of business in more than one State. Besides such banks as will be affected in the manner indicated above, there may be some which will find the scales of pay, etc., laid down by us as too onerous or beyond their capacity and which will, therefore, have either to close down, or cut down expenses which are unconnected with pay scales, etc., or seek amalgamation with other or more affluent banks. In the case of several small banks the cost of attracting deposits, *i.e.*, the rate of interest paid, is unreasonably high; in one case we have found it as high as 5 per cent. It may be possible to effect economy in what are shown as "other expenses" in the balance sheets. If certain banks or branches have to be closed, no doubt there will be unemployment for some, but such prospect must be faced in view of the benefits accruing to the vast majority of employees and the need for upholding the principles which are the basis of our recommendations. Even such unemployment as may result is likely to be relieved by the replacement of the old banks or branches by branches opened by banks with larger resources and by the consequences which may be expected from the labours of the Rural Banking Enquiry Committee.

213. We have examined the financial condition of some of the non-scheduled banks which have supplied us with the necessary figures and information. In 9 such banks[10] the percentages of the gross earnings to the working capital vary from 2.3 per cent to 7.3 per cent and the percentages of the net profits to the working capital vary from 0.11 per cent to 1.94 per cent; and the ratio of the total expenditure on the clerical and subordinate staff to that on the managerial staff also varies greatly, *e.g.*, Rs. 60,875; Rs. 51,596, Rs. 40,946; Rs. 41,574, Rs. 1,47,508; Rs. 48,753 (using the actual figures for the amounts spent). These figures suggest that some of the banks are not being economically run and thus appear to be leading a precarious existence.

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10. Agricultural and Industrial Bank, Union Bank of Bengal, Vijaya Bank, Safe Bank, Orient Bank of India, Maharashtra Apex Bank, Bank of Sirmur, Prabhakara Bank and Gauhati Bank.

§ 33

CHAPTER XIV

House Rent and other Allowances

214. We now proceed to deal with the question of house-rent allowance and other allowances like children's allowance and conveyance allowance (items 4 and 5 in Schedule II).

215. Mr. B. B. Singh declined to recommend any house allowance on the ground that rent, as an element in the cost of living, had been taken into consideration in fixing the pay scales and rates of dear food allowance in his award. He, however, recommended a house allowance for peons and chowkidars in big towns like Lucknow, Kanpur, Banaras and Allahabad. There was a demand before Mr. Justice Divatia for free living quarters for the lower paid staff or in the alternative for Rs. 10 per month. After noticing that certain banks had provided quarters for some members of the lower staff or had been paying a housing allowance, he said :

> "In the present state of shortage of housing accommodation in Bombay, it cannot be made compulsory for banks to provide such accommodation. The dearness allowance which they get partly covers the rent paid by the employees. The rents have not gone up after the war on account of the Rent Restriction Act. I am, therefore, unable to grant this demand for accommodation or compensation. Of course, the banks mentioned above which are granting accommodation or paying housing allowance should continue to do so as at present."

216. Before Mr. S. C. Chakravarty the Imperial Bank of India, Indian Staff Association, Calcutta, asked for several allowances including a house allowance. He allowed an increase in the dearness allowance but was unable to grant any of the other demands, on the ground *inter alia* that the demand for a house allowance was for Calcutta only and not for other places included in the Bengal Circle. Mr. S. K. Sen, who adjudicated on a dispute between the branches of the Central Bank of India at Calcutta and their employees, granted a house-rent allowance on a scale somewhat similar to the recommendation of the Central Pay Commission made in paragraph 78 of their Report.

217. We have based scales of pay largely on the results of the enquiry made by Mr. Subramanian. The figures for monthly requirements of different classes of middle class employees of the Central Government given by him in his Report include the amounts required by such employees to be paid as house rent. There are no materials before us to suggest that the average figures given by Mr. Subramanian are inaccurate or misleading ; and we see no grounds, therefore, generally speaking for all owing house rent in addition to the scales of pay laid down.

218. But two special circumstances will have to be mentioned which, in our opinion, justify us in granting house rent allowances in the particular cases we are specifying. One of them is the fact that with reference to the employees of the Imperial Bank of India, Bengal Circle, we have in our interim award dated the 2nd December 1949 held that in Calcutta, Delhi and Kanpur some house rent allowance should be granted. Another circumstance is that some time has elapsed between Mr. Subramanian's Report and the present date, and we know

that since 1946 the question of residential accommodation has become more acute in some of the very big cities. Owing to these two considerations, we feel justified in holding, and we direct, that house rent allowance at the rates given below (calculated to the nearest eight annas where necessary) should be granted monthly to the employees of A class banks in the cities of Calcutta, Bombay, Ahmedabad, Delhi and Kanpur.

	Calcutta and Bombay.	Delhi and Ahmedabad.	Kanpur.
	Rs.	Rs.	Rs.
(a) Where pay does not exceed Rs. 100 per month.	8	6	5
(b) Where pay exceeds Rs. 100 but not Rs. 200 per month.	12	10	8
(c) Where pay exceeds Rs. 200 per month	6½ per cent of pay.	5 per cent of pay.	4 per cent of pay.

219. Certain banks are providing free accommodation to some of their employees specially of the subordinate staff, some of the latter being allowed to sleep on the bank's premises. Whether such accommodation is or is not adequate for the workmen's family it must generally be regarded as a concession or amenity voluntarily granted by the bank, and it should, therefore, continue to be provided as before. We think, however, that in such a case if the employee concerned wishes to continue to avail himself of such concession or amenity he should not be entitled to the special house-rent allowance provided for the cities named above. We direct accordingly.

220. We now proceed to consider a large number of demands for other allowances (item 5 in schedule II). The following list includes most of the demands made under this head :

Education or children's allowance ;
Conveyance allowance ;
Halting allowance ;
Washing allowance ;
Hill allowance ;
Fuel allowance ;
Grain allowance ;
Poona Cantonment allowance ;
Officiating allowance ;
Scarcity allowance ;
Border allowance ;
Local allowance ;
Six-monthly accounting allowance.

By " children's allowance " is meant an allowance for the children's education or such an allowance as is given by the Reserve Bank of India as " family allowance " (Rs. 10 per month per child up to a maximum of Rs. 30 per month). An item of " children's education " is included among the " miscellaneous " items of expenditure in Shri Subramanian's calculations, and we need not, therefore, grant any such allowance.

221. By " conveyance allowance " is meant an allowance for journeys to and from the place of work, the clearing house, etc. Mr. Subramanian again, has included " travelling from and to place of work " among the miscellaneous items of expenditure, and the said allowance, therefore, cannot be granted. If an employee has otherwise to incur expenditure by going out on the bank's

work and while he is on duty (the absence not exceeding a day), he is entitled to be reimbursed on account of all such expenditure fairly and legitimately incurred. We direct accordingly.

222. By "halting allowance" is meant the kind of allowance defined in the Reserve Bank of India (Staff) Regulations as a "payment made to an employee in addition to other emoluments for any day during which an employee is absent from headquarters on duty and intended to cover the ordinarily daily expenses incurred by him in consequence of such absence". Mr. S. C. Chakravarty in an award regarding the Imperial Bank of India in West Bengal found the existing rates of Rs. 3-12 for clerks and Rs. 1-8 for the inferior staff adequate, except in respect of Calcutta, Delhi and New Delhi for which he directed "a temporary surcharge of 50 per cent so long as the high cost of living continues." We think that a case has been made out for a halting allowance and we lay down the following scales of daily halting allowances for each day or part thereof amounting to not less than three hours:

Class of Banks.	In respect of halt in areas.	Employees who are not members of the subordinate staff drawing pay within the following limits.					Employees who are members of the subordinate staff.
		Rs. below 100.	Rs. 100—149.	Rs. 150—199.	Rs. 200—299.	Rs. 300 and over.	
		Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.
Class A	Class I	4 8	6 0	7 8	9 0	10 8	2 4
„ A	„ II	3 8	5 0	6 8	8 0	9 8	2 0
„ B	„ I						
„ A	„ III						
„ B	„ II	3 0	4 8	6 0	7 8	9 0	1 12
„ C	„ I						
„ B	„ III						
„ C	„ II	2 8	4 0	5 8	7 0	8 8	1 8
„ C	„ III	2 0	3 8	5 0	6 8	8 0	1 4

The figures given for class A banks in class I areas generally correspond to the amounts now being paid by the Central Bank of India.

223. "Washing allowance". This is an allowance claimed in respect of the washing of uniforms or other clothes provided for or worn by members of the subordinate staff while on duty. We direct that unless a bank arranges for the washing or pays the washing charges an allowance of Rs. 3 per month in Class I areas, Rs. 2 per month in Class II areas and Re. 1 per month in Class III areas shall be paid by banks of classes A and B to such members of the subordinate staff as are provided with or required to wear uniforms.

224. "Hill allowance". A special allowance, in view of the higher cost of living at hill stations, has been asked for, at the rate of Rs. 20 per month in respect of Simla, Darjeeling, Mussorrie, Nainital, Shillong and Ootacamund. Such an allowance is being paid at present by certain banks. We direct that

for hill stations with a height above 3,000 feet and up to 5,500 feet above the sea level 8-1/3 per cent of the pay, subject to a minimum of Rs. 6 per month, and for hill stations higher than 5,500 feet above the sea level 12½ per cent of the pay, subject to a minimum of Rs. 10 per month, shall be paid to all employees by way of hill allowance.

225. "Fuel allowance". This is paid by certain banks during the period November to March at certain hill stations. The Imperial Bank of India pays a fuel allowance at the main hill stations at the rate of Rs. 8 per month for clerks and Rs. 4 per month for the subordinate staff. The demand is for Rs. 30 per month. We think that the demand is excessive, although the price of fuel has gone up materially. We direct the payment of a fuel allowance at the same rate as the hill allowance subject to a maximum of Rs. 20 per month for the five months, November to March.

226. "Grain allowance". This used to be given by the Hongkong and Shanghai Banking Corporation and the Chartered Bank of India, Australia and China. It was first abolished after the Divatia award by the latter bank which came under the said award, but it was restored by an order made by Divatia J as it amounted, in his opinion, to an existing amenity. The Hongkong and Shanghai Banking Corporation, however, does not come under the Divatia award and has abolished the allowance. The demand is that it should be restored. We are not inclined to restore it, as all reasonable items of expenditure have been taken account of by us in fixing the scales of pay.

227. "Poona Cantonment allowance". This refers to an allowance which is being given to the employees of the Imperial Bank of India in its branches situated in the Cantonment at Poona, having been introduced in the said branch in 1943 and being equal to the difference between the emoluments at Poona and those at Bombay. The allowance is demanded by the employees working in the city of Poona where it is not being paid. There seems to be no reason why the allowance should be retained for the employees in the Cantonment, whatever might have been the reasons for its introduction in 1943. We have found that the number of vouchers handled in the city branches of the bank exceeds the number of those handled in the Cantonment branch. The authorities of the bank propose to abolish the invidious distinction by doing away with the allowance altogether. We think that it would be a good solution, and in view of this no direction from us on this question is necessary.

228. "Officiating allowance". By this is meant an allowance payable in respect of an employee's officiating in a higher post, *i.e.*, a post carrying a higher salary than his own. There is a rule regarding officiating pay in the Reserve Bank of India (Staff) Regulations, 1948 (regulation 69) and there are similar rules for persons in Government service. The U.P. Bank Employees' Union has asked for 20 per cent of the wages as the officiating allowance, but this demand is not supported by the other unions. Some of the banks have pointed out that officiating or acting in a higher job affords an opportunity to learn work and should be welcomed by the employees. As observed by Mr. M. C. Shah in the award concerning the dispute between the Mill Owners' Association, Bombay, and their employees in occupation "H" in the cotton textile industry, "that may be so, but if a man is considered to be fit enough to act in a higher post for a certain length of time, then it is but proper to pay a certain additional remuneration for doing the duties of that post[1]". We direct that where an employee acts in a higher post for a period longer than

1. 1950 I.C.R. (Bom.), p. 8, at page 35.

15 days he shall be paid an officiating allowance calculated at the rate of 50 per cent of the difference between his own basic pay and that of the person for whom he officiates, or at 20 per cent of his own basic pay, whichever is lower.

229. "Scarcity allowance" is paid by the Bank of Baroda at Port Okha. Dwarka and Hithapur. The demand is that it should be continued. This allowance appears to have been introduced owing to scarcity conditions prevailing at the places named above. They cannot be indefinitely continued, and we do not know whether scarcity conditions still continue to exist at those places. We would leave the matter to the discretion of the Bank authorities and give no directions in the matter.

230. "Border allowance". This is demanded for certain places near the border of Pakistan on account of the risk involved. The Central Pay Commission noted (page 52 of the Report) that in certain localities allowances were granted "to compensate for the hardship incidental to service in certain difficult or remote areas, *e.g.*, the Frontier tracts or places which are declared as non-family stations". We are unable to grant an allowance of this nature. Apart from the difficulty of defining a locality for which a "border allowance" might be appropriate and of regarding members of all communities as equally exposed to the risks involved it seems obvious that if there are real risks at such a station, it would be reflected in the increased cost of living, for which an employee serving there would be entitled to a higher dearness allowance, so that no other compensation would ordinarily be necessary.

231. "Local allowance". It is stated by certain employees of the Punjab National Bank, and it has not been controverted, that such an allowance is paid to Punjabi employees of the bank who are sent out to serve in a place outside the Punjab. If such a practice obtains it should either be abolished or non-Punjabis should be entitled to a similar allowance when serving outside their State. We direct accordingly.

232. "Six monthly accounting allowance". This allowance is demanded in respect of the extra work that has to be put in by bank's employees twice a year for the purpose of the making up of six monthly accounts. It seems to us, in view of the provisions of the Shops and Establishments Acts in the several States (*e.g.*, sections 14 and 63 of the Bombay Shops and Establishments Act, 1948 and section 8 of the U.P. Shops and Commercial Establishment Act, 1947), that on such occasions the employees in question are entitled to earn extra wages for overtime work. No further directions from us, are, therefore, necessary.

Mr. N. Chandrasekhar Aiyar has recorded a Minute of Dissent as regards paragraph 218. It is printed at the end of this award.

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CHAPTER XV

Bonus

SECTION I

Nature of Bonus: Amount

233. The next item in Schedule II is, "Bonus, including the qualifications for eligibility and method of payment." It has now been authoritatively decided that though bonus may not be included in the terms of any contract entered into by an employer and his employees, as soon as a demand for bonus is refused all the elements of a trade dispute arise, and that for this reason it cannot be regarded as an *ex gratia* payment (*The Indian Hume Pipe Co.* v. *Nanavaty*[1]; *In the matter of an application and in the matter of the India Paper Pulp Company, Limited*[2]; *C. Baktavatsalu Nayudu* v. *The Chrome Leather Co., Limited*[3] also *National Association of Local Government Officers* v. *Bolton Corporation*[4]). In the Divatia award it was observed, "It is within the competence of a bank to give a bonus to its shareholders as well as members of the staff, and although such a bonus to the members of the staff may not have any precise and definite relation to the profits, the extent of those payments does depend roughly on the profits made." It has, at the same time, been held by the Industrial Court, Bombay, in more than one award, that one of the justifications for the payment of a bonus is the difference between the actual wage and the living wage. In "The Spirit of Industrial Relations" by H. S. Kirkaldy (Oxford University Press, 1947) the author states (page 101): "Profit-sharing can never be a complete solution to the problems of industrial co-operation because a living wage must always be a first charge upon industry so long as it continues to operate and whether it makes a profit or not." In the award made by the Industrial Court, Bombay on an industrial dispute between the members of Millowners' Association, Bombay and other Cotton Textile Mills in Bombay on the one hand and their employees on the other regarding bonus for the year 1948, the following conclusion was reached: "It may, therefore, be stated that so long as the living wage standard has not been attained the bonus partakes primarily of the character of the satisfaction, often partial and temporary, of the deficiency in the legitimate income of the average worker in an industry, and that once such income has been attained, it would also partake of the character of porfit-sharing. Owing to this dual character of bonus it would be a mistake to regard a demand for bonus as a demand for profit-sharing pure and simple[5]. We agree with this opinion.

234. A large number of demands have been made by the unions for bonus for particular years in respect of particular banks. We have been unable to deal with such individual demands except such matters as were pending in Industrial Tribunals and Courts in the different States at the time of our

1. 48 Bom. I.R. 531.
2. [1949] (I.F.J.R. 119).
3. [1949] (I.F.J.R. 84).
4. (1943) A.C. 166, at page 187.
5. *Bombay Government Gazette*, Extraordinary, Part I-L, May 5, 1949, p. 156.

appointment and have been specifically referred to us under the provisions of section 5 of Ordinance VI of 1949 or Act LIV of 1949. Apart from the great deal of time that we should have to spend on such Questions had we to hear and dispose of every application for a particular year in respect of a particular bank, we believe that the kind of disputes regarding bonus that have been referred to us are disputes of a general nature, *e.g.*, Questions regarding "qualifications for eligibility and method of payment" there being no reference in item 6 in Schedule II to "specific cases" as under item 18 (retrenchment and victimization).

235. The general demands regarding bonus vary from two months to four months' salary and allowances. A number of demands are in terms of the basic salary and some unions have advocated a share in the net profits of every year, varying from 20% to 50%. Several unions have demanded that there should be no such conditions as are usually attached to eligibility for bonus; and some have also asked for a percentage of the Excess Profits Tax when it is returned by Government.

236. Certain adjudicators have attempted to discover a formula for the ascertainment of bonus in all cases, linking it either with the dividend paid or the profits earned by an industrial concern. In an award regarding the textile industry in the Madras Presidency Rao Bahadur M. Venkataramaiya noticed that in the Buckingham and Carnatic Mills the bonus paid was linked to the profits distributed, *e.g.*, if the dividend declared was 12½ per cent the bonus paid was 12½ divided by 100 x 12 or 1½ months' wages. He recommended the adoption of this rule. He saw some danger in such a rule, namely, that out of the profits earned a large portion might be carried forward to the reserve in order to reduce the amount that might be available to the shareholders, thereby lowering the dividend; and he expressed the hope that there would be no deliberate attempt to spite the worker by these methods."

237. In an award concerning the industrial disputes between the employers of thirty-six cotton mills in West Bengal and their workmen, a Tribunal composed of Messrs. A. Das Gupta, S. C. Chakravarty and S. C. Datta Gupta adopted the following formula:

$$\text{(Bonus of a worker in a year =)}\quad \text{Total wages and dearness allowance earned by the worker in the year} \times \frac{\text{dividend declared}}{100} \times \frac{\text{Total number of days worked } \textit{plus} \text{ authorised holidays and leave on full pay}}{\text{number of days in the year}}$$

In another award in West Bengal, namely, in the matter of the industrial dispute between Messrs. Kilburn and Company and Messrs. MacNeill and Company on the one hand and their workmen on the other, Mr. A. Das Gupta observed: "In my opinion, if there is any profit in any year, a reasonable portion should be set apart for reserves and depreciation. By profit, I mean the net profit. Out of the balance, attempt should be made to set apart 6 per cent of the capital employed for return to the investors. If anything is still left, that shall be distributed among the investors and the employees proportionately. The total annual remuneration paid to the workmen as basic wages and dearness allowance shall be considered as the value of the labour employed. Bonus payable to an employee shall be (the net profit in a particular year minus depreciation, reserve, provident fund, and other items of like importance minus 6 per cent of the Capital employed) divided by (the total value of labour in the year plus Capital

employed) multiplied by (the value of labour of the particular employee). If the initial letter stands for the terms referred to above, the bonus payable to an employee may be expressed arithmetically as indicated below—

$$\text{Bonus to an employee} = \frac{\text{Net Profit—(D } \textit{plus} \text{ R } \textit{plus} \text{ P.F. } \textit{plus} \text{ Important items)}}{\text{6 per cent Capital employed}} \times \frac{\text{Value of labour of the particular employee.}}{\text{Total value of labour } \textit{plus} \text{ Capital employed.}}$$

238. Before Mr. Justice Divatia Mr. Shantilal Shah suggested on behalf of the employees the laying down of a rule that if the dividend was 4 to 6 per cent a bonus of one month's salary, if it was from 6 to 10 per cent then two months' bonus and if it was over 10 per cent three months' bonus should be granted. This proposal was opposed by the banks on the ground that it would amount to a proposal for participation in the profits and that under section 277 RH of the Indian Companies Act, a bonus in the form of such participation in the profits would not be legal. Mr. Justice Divatia said, "that is quite correct. At the same time it is within the competence of a bank to give a bonus to its shareholders as well as members of the staff, and although such a bonus to the members of the staff may not have any precise and definite relation to the profits, the extent of those payments does depend roughly on the profits made. The demand of the employees for laying down a general principal concerning all bonuses in future cannot, therefore, be granted and at my suggestion the employees agreed to limit their demand for bonus for the past accounting year of the bank which in most of the banks is January to December 1946".

239. We have now in the Banking Companies Act, 1949, the following provision: "No banking company.....shall employ any person.....whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company." [(Section 10 (1) (*b*) (*ii*)).] We do not think that it is necessary for us to consider specifically the question whether any of the three formulæ set out above would be legal or not in view of this provision in the said Act, because we do not propose to lay down any formula making bonus a share in the profits. We have taken the view that the receipt of a bonus is not simply or necessarily a matter of profit-sharing. It also seems to us that a company has sometimes to declare a particular dividend owing to considerations not strictly related to the profit alone; for instance, a sudden declaration that no dividend can be paid may have serious consequences on the credit of such a delicate organization as a bank; or for certain reasons the shareholders' hopes might have been pitched high (*e.g.*, by a return of the Excess Profit Tax or some other windfall) which it may not be expedient to disappoint; or it may be necessary to set aside a substantial part of large profits made in the year, in the form of a reserve, for particular purposes. In this connexion the following remarks made by Mr. R. S. Sayers in his "Modern Banking" (Edition 1941) regarding the Bank of England's dividends are of interest: "The central bank must, therefore, always demonstrate that it is not incurring losses, even if it has been incurring losses. Accordingly it must never pass a dividend, and there is a strong case against ever reducing the dividend. If proper performance of its functions leads to its incurring losses, either it must cover them out of secret reserves or it must be helped by the Government." It would not, therefore, be proper to hold that dividend is necessarily a function

(to use a mathematical term) of a bank's profits, although ordinarily the rule must be the greater the profits the greater the dividend. We, therefore, are of opinion that if we link bonus to the amount of the dividend that would not necessarily amount to giving an employee a remuneration which "takes the form of a share in the profits of the company". As workers contribute their labour while shareholders contribute a part of the working capital, both should (apart from the provision in the Banking Companies Act under consideration) be entitled to shares in the resulting profit, and from this point of view also, the linking of dividends and bonus does not appear to be illegitimate. It may however, in passing be noted that in the case of banks the major part of the working funds is not the paid-up capital but the deposits and that only a small part of their establishment is concerned with matters of policy and intelligent use of its resources which are primarily responsible for their profits. On the whole, however, it seems to us that a great deal can be said in favour of such a simple formula as that which was suggested by Mr. Shantilal Shah before Mr. Justice Divatia. We direct, accordingly, that bonus shall be paid to the employees on the following scale:

Up to 4 per cent dividend	*Nil*
For every increase of ½ per cent in the dividend over 4 per cent	1/6 month's pay.

This scale will apply to employees who have worked throughout the year authorised holidays and leave on full pay counting as days of work for this purpose. In the case of others the amount indicated above shall be multiplied by the following coefficient: total number of days on which the employee has worked *plus* authorised holidays and leave on full pay divided by total number of working days in the year.

240. As to the question of a percentage of the Excess Profit Tax being paid when it is returned, no real dispute concerning it can be said to have arisen before the receipt of such refund, for the managements' proposed method of dealing with it may leave no scope for a dispute.

SECTION II

Conditions as to receipt of Bonus

241. As to conditions which are usually attached to the receipt of a bonus, the following conditions mentioned in the award by the Industrial Court, Bombay regarding the bonus payable by certain cotton textile mills at Bombay for the year 1948[6] furnish a fair sample:

(1) Employees who have worked for less than 63 working days and more than 20 working days shall be granted a bonus to the extent of 50 per cent and employees who have worked for 20 days or less shall not be paid any bonus.

(2) Any employee who has been dismissed for misconduct in 1948 shall not be entitled to any bonus even if he has worked for more than 20 days.

(3) Bonus shall be calculated on earnings (exclusive of dearness allowance and bonuses paid during the period) from the 1st January to the 31st December, 1948.

6. *Bombay Government Gazette*, Extraordinary, Part I-L, May 5, 1949, page 149.

(4) In the case of women who have been on maternity leave during the period referred to, the actual maternity allowance drawn by them shall be included in their earnings for the purpose of calculating the bonus payable.

(5) Bonus as above stated shall be paid to the employees in two instalments by the 31st May 1949 and the 30th June 1949 respectively.

(6) Persons who are eligible for bonus but who are not in service of the mill on the date of the payment shall be paid in one lumpsum by the 30th November 1949. In such cases, claims in writing should be submitted to the Manager of the Mill concerned.

Conditions (1) and (2) above are objected to by the employees. As to the first, it is contended that a bonus is earned by past work, that it is not a reward and that if the object of inserting a clause about a qualifying period of work be to discourage absenteeism, such an object cannot be achieved by this method: the Textile Labour Enquiry Committee, Bombay have stated at page 364 of their Report, Vol. II, that proper conditions of work in the factory, adequate wages, protection from accident and sickness and facilities for obtaining leave for rest and recuperation constitute the most effective means of reducing absenteeism. We think that there is much force in these arguments; and we may also note that neither in the award made by Messrs. A Das Gupta, S. C. Chakravarty and S. C. Datta Gupta, nor in the one by Mr. A. Das Gupta (referred to in section I) has any such condition been imposed. In the former of the two awards it is expressly stated that no maximum or minimum limits to the bonus are prescribed. We think that it is unnecessary to prescribe any qualifying period of service for the purpose of eligibility to a bonus.

242. As to the second condition, it is pointed out on behalf of the employees that one who is dismissed for misconduct must be regarded as sufficiently punished by the dismissal, and it is contended that he should not again be penalised by forfeiture of the bonus, which may, besides, be in respect of a period within which the misconduct did not take place. Such a contention was upheld in an award made by Mr. P. S. Bakhale, Industrial Tribunal, Bombay (*The Eastern Chemical Company (India), Bombay* v. *its workmen*[7]). It is also doubtful how far such a provision actually serves as a deterrent against misconduct, when the prospect of dismissal does not serve as such. There is no doubt, however, that if an employee has defrauded his bank or caused it damage or loss, any claims which the bank can legitimately have against him should be set of against any claims (including a claim to a bonus) which he may have against the bank. We think that the conditions as to forfeiture of the bonus on account of dismissal for misconduct is a remnant from the days when a bonus was regarded as a sort of reward or *ex gratia* payment, and, therefore, subject to what we have said above, we are not in favour of its retention.

243. We lay down the following conditions:—

(1) Bonus shall be calculated on the pay earned, *i.e.*, on the arggegate of (*a*) the basic pay, (*b*) special allowance, if any (Chapter XI), and (*c*) officiating allowance, if any (see Chapter XIV), earned during the official year of the bank. A "month's pay" in the formula given in Section I will thus mean one-twelfth of such aggregate.

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7. *Bombay Government Gazette*, Extraordinary, 25th September 1948, page 1332.

(2) Bonus may be paid in one or two instalments in a year, and the total amount due shall be paid (subject to the next condition) within two months from the date on which the dividend is declared.

(5) Persons who are eligible for bonus but who are not in the service of the bank shall be paid on their claims being submitted in writing to the bank, within two months of the declaration of the dividend or of the date of the application, whichever is later, provided that no such person shall be entitled to a bonus which has not been claimed for a year after the declaration of the dividend.

244. We have noticed that when a bonus is declared it is drawn by all employees, from the highest officer to the lowest menial, except perhaps a few temporary or casual employees and new entrants. The effect of this practice is that whereas an average employee gets a modest amount, the highest officers, by virtue of their comparatively high rates of pay, get proportionately large sums by way of bonus. If our conclusion be correct that in the present circumstances of industrial development in this country bonus primarily represents an approximation towards the living wage and is only secondarily incidental to the accrual of profits, then the present practice does not appear to us to be wholly justified. We think that the better practice would be for the higher paid officers (say, those who draw over Rs. 1,500 per month as pay) to get bonus at one quarter of the rate, and for officers getting between Rs. 750 and Rs. 1,500 per month as pay at one-half of the rate, to which an ordinary workman would be entitled. We, however, give no directions in this matter but recommend our conclusions to the directors of the banks for their consideration.

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CHAPTER XVI.

Provident Fund

245. The next subject for our consideration is, "Privident fund, including the rate of contribution and the rate of interest (item 7 in Schedule II). The principal demands are as follows :

(*a*) the percentage of salary that may be contributed (the bank's contribution being equal should be increased to 8 1/3, 9 3/8, 10 or 12½ per cent : at present it is generally 5 per cent ;

(*b*) the rate of interest to be earned by the fund should be 5 per cent : it is less now ;

(*c*) there should be adequate (50 per cent) representation of the employees on the Board of Trustees ;

(*d*) an employee leaving the bank at any time should be entitled to get the full amount at his credit including the bank's contribution ; or at least 50 per cent of the bank's contribution with interest after 2 years' service and the full contribution after 5 years' service ;

(*e*) employees should be entitled to take loans from or against the fund without interest or at low rates of interest ;

(*f*) where no provident fund exists one should be introduced, those who have suffered owing to its non-existence being adequately compensated.

246. As to the Provident Funds which exist (they exist in most of the bigger banks), Mr. Justice Divatia noticed the following difficulty : "The Provident Fund in each bank is one common fund for all its employees in the Head Office as well as in its branches, and it is vested in certain trustees under a trust which is not revocable save with the consent of all the beneficiaries, *i.e.*, all employees including officers. That is in accordance with the provision of section 58 C (*i*) (*e*) of the Indian Income-tax Act. In the case of Exchange Banks the beneficiaries are scattered in different places, throughout the world. Even in the case of other banks with Head Office or branches outside the Province of Bombay all the beneficiaries are not before me. I cannot, therefore, make any award which would be binding on those who have to administer the Provident Funds. All that I can do is to express my opinion and make recommendations". Mr. B. B. Singh recommended the following scheme of Provident Fund :

'A' Class Banks : 9 3/8 per cent contribution on each side with 4 per cent interest.

'B' Class Banks : 8½ per cent contribution on each side with 4 per cent interest.

'C' Class Banks : 6 1/3 per cent contribution on each side with 4 per cent interest.

The difficulty noticed by Mr. Justice Divatia does not appear to have been brought to his notice. Mr. S. K. Sen, in dealing with the dispute between the Central Bank of India Ltd., and its employees in its Calcutta branches took the same view as Divatia J and held that he had no power to interfere with the Provident Fund as it existed in the said bank.

247. The following provisions of the Indian Income-tax Act are relevant:

Proviso to explanation 2 to Section 7 (1): "Nothing herein contained shall render liable to income-tax any payment..... from a recognised provident fund within the meaning of Chapter IX-A if such payment is exempted from payment of income-tax under the provisions of Chapter IX-A".

Section 58-B (1): "The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58-C, and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions".

Section 58-C (1): "In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below.....

(c) "Subject to the provisions of section 58-D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employees in that year"

(e) "The fund shall be vested in two or more trustees..under a trust which shall not be revocable save with the consent of all the beneficiaries".

Section 58-F (1): "An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year or six thousand rupees, whichever is less".

248. These provisions clearly indicate the importance of having the provident fund recognised by the Commissioner of Income-tax and the difficulty for this Tribunal in interfering with the provisions of a scheme under which a provident fund has been vested in trustees. We have looked at several such schemes and the rules made thereunder. Some of the employees and their advocates suggested that the trustees in such cases should be made parties to the proceedings; but we did not consider this course advisable or expedient. As regards the rate of interest which the provident fund should earn the following provisions from section 282-B of the Indian Companies Act are relevant:

"(2) Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund (whether by the company or by the employees) or accruing by way of interest or otherwise to such fund after the commencement of the Indian Companies (Amendment) Act, 1936, shall be either deposited in a Post Office Savings Bank Account or invested in securities mentioned or referred to in clauses (a) to (c) of section 20 of the Indian Trusts Act, 1882, and all moneys belonging to such fund at the commencement of the said Act which are not so deposited or invested shall be so deposited or invested in such securities by annual instalments not exceeding ten in number and not less in amount in any year than one-tenth of the whole amount of such moneys.

"Provided that where one-tenth part of the whole amount of the moneys belonging to such fund exceeds the maximum amount which may be deposited in a Post Office Savings Bank account under the rules regulating such deposits for the time being in force, the amount of such excess may be kept or deposited in a special account to be opened for the purpose in a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (II of 1934).

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" (3) Notwithstanding anything to the contrary in the rules of any fund to which sub-section (2) applies or in any contract between a company and its employees, no employee shall be entitled to receive in respect of such portion of the amount to his credit in such fund as is invested in accordance with the provisions of sub-section (2) interest at a rate exceeding the rate of interest yielded by such investment."

These provisions show that the demand that the rate of interest should be 5 per cent is unreasonable. The Imperial Bank of India formerly used to pay interest at 5 per cent per annum; but since 1933 it has been obliged, by the general lowering of the rate of interest, to reduce this rate.

249. A set of Model Provident Fund Rules[1] for industrial employees were prepared by the Government of India and submitted for discussion at the Fifth Labour Conference held in 1943 and after further discussion in the Fourth Meeting of the Standing Labour Committee in January 1949 they were circulated to the Provinces, Employers and Employee's Associations for information. These rules appear to us to be carefully drawn up and deserve the earnest consideration of all employers. We direct that where no provident fund has been instituted one in accordance with the said Model Rules shall be instituted within six months of the publication of the award. Where a Provident Fund already exists we recommend that in case any provision in the Model Rules is more liberal than the corresponding existing provision, the latter should be amended to bring it in conformity with the former. If, however, a sufficient number of employees of a bank are not satisfied that the rules have been sufficiently approximated to the Model Rules they should, in our opinion, be entitled to ask that a new Provident Fund on the lines of the Model Rules should be instituted, insisting, if they so desire, that the maximum limit of the amount of subscription shall be any percentage not exceeding 8 1/3 per cent (see rule 6 of the Model Rules). We direct that in such an event, if a written application to such effect, signed by at least 50 per cent, of the workmen at the head office of any bank, (such office being taken to mean, in the case of the Exchange Banks, the branch where the head of the staff in India usually works) be received within six months of the publication of this award;

(*a*) such a separate Provident Fund (subject to the amendment indicated, if any) shall be instituted by the bank within four months thereof, and

(*b*) any employee shall have the option of remaining a member of the old Provident Fund or joining the new Fund, the option being exercised within two months after the institution of the new Fund. We trust that the Trustees of the present Funds will be able to assure those who wish to join the new Fund that they will be freed from their liabilities in respect of the old Fund but will retain the rights and benefits which have accrued and which may accrue from the old Fund, and that such employees will not incur any penalty or liability for having stopped their subscriptions to the said Fund.

250. We have felt obliged to give the above directions mainly on account of certain provisions in some of the existing schemes which appear to us unnecessarily illiberal. For instance, hardly any of the Funds has a Board of Trustees in which the employees are represented. In the Model Rules, on the other hand, it is provided : " The Fund shall be administered by a Board of Trustees formed with an equal number of representatives by the employer and the subscribers ".

1. See Appendix VI.

In certain schemes an employee has merely the option of becoming a member or subscriber. In the Model Rules all non-pensionable employees with emoluments of not less than Rs. 25 per month (subject to a certain qualification about the number of days they have worked) are required to subscribe to the fund; other non-pensionable employees (with a similar qualification) may be permitted to do so. In several banks (*e.g.*, the Bank of Baroda, Ltd.) it is provided that no member shall ordinarily be entitled to receive payment of any part of the bank's contribution until he shall have served for a period of 15 years or attained the age of 55 years. Such a provision compares unfavourably with the provision regarding "deductions" in the Model Rules, or with the recommendation made in this behalf by Mr. Justice Divatia in his award (a recommendation which does not appear to have been acted upon by any bank).

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CHAPTER XVII

Gratuity

251. The subject arising next for our consideration is "Gratuity, including whether it should be compulsory or *ex-gratia*", (item 8 of Schedule II.)

252. Before we enter upon a discussion of this subject, we might first deal with a question which has sometimes been raised in connection with retirement benefits, namely, whether more than one retirement benefits are desirable. A West Bengal Tribunal which adjudicated upon the disputes in the Engineering Industry in that State in 1948 came to the conclusion that the workmen should be entitled to claim only one kind of retiring benefit. In the State of Bombay, on the other hand, most of the awards include both a provident fund and a gratuity. Divatia J allowed a gratuity even though the banks concerned had provident fund schemes; and Mr. B. B. Singh also acted likewise in his award. In actual practice we find that certain banks give two, three or even more retiring benefits, *e.g.*, provident fund, gratuity, pension, compassionate allowance, "retiring allowance", and "retiring fund", a provident fund scheme existing in nearly all the banks and gratuity being also provided for in a large number of banks. In Government service most of the employees become entitled to pension and most of them are entitled to contribute to provident funds (without contribution from Government) also. The Central Government have recently sanctioned a new scheme of retirement benefits, embracing a pension, a gratuity and a family pension, with facilities for partial commutation of the pension. There would, therefore, appear to be no inherent impropriety in more than one retirement benefits existing side by side. At the same time it is eminently desirable that where banks of equal or similar capacities and resources are concerned the burden placed on them, including the burdens already being borne by them, should not be patently dissimilar. The National City Bank of New York, Bombay Branch, has brought to our notice that although it gives its employees only one retirement benefit, namely, a provident fund, it pays much higher salaries than those generally prevailing elsewhere (Rs. 88 per month being the lowest and Rs. 410 the highest) and dearness allowance at 50 per cent of the basic salary with a minimum of Rs. 50 per month; it also contributes 10 per cent of the basic salary to the provident fund. In view of this it asks that it should not be required to make any provision for gratuity or pension in addition, or that the quantum of any additional retirement benefit held payable should be reduced by the extent an employee of the bank enjoys advantages over and above the scales of pay, dearness allowances, etc., laid down in this award.

253. We are to consider only three kinds of retirement benefits, namely, provident fund, gratuity and pension. It is an elementary principle that an employee who has served an institution during the best part of his life should not, on his retirement, have to face the prospect of starvation, indebtedness or dire poverty; and it should also be accepted that if an employee dies while in service or shortly after his retirement his family should have some provision to fall back upon, at least for a time. In old days many an employee, even in a humble situation, could hope to save something against a rainy day; but in these days of high cost of living the chances of saving anything substantial are dwindling greatly, if not disappearing, for a great many employees of the lower middle

class. The scales of pay we have laid down for banks of class C, being based on the requirements at the subsistence level, can hardly leave much scope for saving (apart from the contributions to the provident fund) ; the employees concerned may perhaps congratulate themselves if they can keep clear of indebtedness.

254. In our opinion banks having schemes regarding pensions towards which they make contributions need not pay any gratuity to such employees as would be entitled to such a pension. A gratuity, like a pension, is ordinarily a recognition of long and faithful service, and as "affording a means, which the individual worker may be unable to do himself of putting by a little to provide for the days when he will no longer be able to work"[1]. In certain awards a gratuity has also been regarded as some kind of insurance against or compensation for termination by the employer of the services of an employee, and in such cases the minimum qualifying period of service for earning gratuity, when an employee's services are terminated by the employer, has sometimes been fixed at 5 years or less. We do not think that it should be the object or one of the objects of a gratuity to provide a sort of brake on the employer's power to terminate an employee's services. In genuine cases of retrenchment the employees retrenched would often seem to deserve some compensation, and we have considered this question elsewhere in our award. There are, however, other kinds of termination of services, where it may not be desirable to give the employee concerned such compensation. There is no reason why, where only a provident fund exists, an employee should not also be entitled to a gratuity. We are of opinion, and we direct, that except where there is a scheme regarding pension towards which the bank makes contributions and it is possible for an employee to earn a pension under such a scheme, a gratuity should be paid to all employees who are covered by this award on the scales given below, provided that where a scheme of gratuity more favourable to the employees than the one laid down below exists, the benefits of such scheme shall be continued to be enjoyed by the employees concerned :

Banks in Class A.

(1) on the death of an employee while in the service of the bank; one month's pay for each year of service, subject to a maximum of 15 months, to be paid to his heirs, executors, assigns or nominees ;

(2) on an employee becoming physically or mentally disabled to continue further in service, or on termination of service by the bank after 10 years' continuous service : gratuity at the same rate as above ;

(3) on voluntary retirement, or resignation of an employee, after 15 years' continuous service : gratuity at the same rate as above.

Banks in Class B.

Gratuity at the rates set out above, provided that where the expression "15 months" occurs the expression "12 months" should be substituted for it.

Banks in Class C.

Gratuity at the rates specified for banks in class A, provided that where the expression "15 months" occurs the expression "6 months" should be substituted for it.

1. C. Bhaktavatsalu Nayudu *v.* The Chrome Leather Co., Ltd., [1949] (1. F.J.R. 84).

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255. The pay, for the purposes of calculating the gratuity, shall be the average of the pay drawn during the 12 months next preceding death, disability, retirement, resignation or termination of services, as the case may be. A bank, of course, will be at liberty to grant gratuity in excess of the scale set out above, in its discretion.

256. There are certain banks in which gratuity is not regularly paid but it is paid only in certain cases regarded as deserving (gratuity being regarded as an *ex-gratia* payment) or only when the profits allow of such payment. To introduce a scheme of gratuity in such a bank may be to put on it a somewhat onerous burden. To work such a scheme properly it should have a gratuity fund built up by annual accumulations for a number of years. One particular year may see the retirement of a large number of employees, *e.g.*, those who joined the bank at its inception or when it had expanded largely during the last war. To have to pay gratuity to such a number of employees in a particular year may put an undue strain on such a bank. We, therefore, direct that where there has been no scheme of regular payment of gratuity in the past, the scheme indicated above shall come into operation two years after the publication of this award, and that in such a case the service of an employee who is in service at the date of such publication shall be counted as one-half of its length for the purposes of calculations of the gratuity payable.

257. It has been usual, at least in the awards made in the State of Bombay to give a direction that gratuity shall not be paid to an employee who has been dismissed for dishonesty or misconduct, or dismissed for gross misconduct such as wilful insubordination or disobedience, causing damage to the company, theft, fraud or dishonesty in connection with the company's business or property, etc. We have not introduced such a clause in connection with the question of bonus. But we think, and we direct, that where an employee has been convicted of a criminal offence, or where his misconduct has involved the bank in loss or damage, the bank should be entitled to forfeit, at their discretion, wholly or in part, the gratuity which would have otherwise been payable to him. Bonus is earned by past work and is generally dependent on the profits made by a company or industry; it is besides, related to the question of the living wage. No such consideration arise in the case of a gratuity, and it is a payment in connection with an employee's needs generally with reference to the future. Besides, in the case of a bonus, in most cases an employee does not leave service after it is paid, and the company generally retains its hold on him in respect of any claims for any loss or damage caused by him. That is not the case when a gratuity has to be paid. At the same time, to give the company an almost entirely discretionary power to forfeit a gratuity on the ground of misconduct might, lead to abuse. We, therefore, further direct that in cases in which a gratuity is intended to be forfeited, wholly or partially, on the ground that an employee's misconduct (which has led to his dismissal) has involved the company in loss or damage in the proceedings held leading to his dismissal the charge shall specifically show (*a*) how such misconduct resulted in loss or damage to the company (*b*) the extent of such loss or damage and (*c*) the action which is proposed to be taken or which may be taken in respect of any gratuity payable; provided that such a charge may also be made after the proceedings leading to his dismissal have terminated and that in such an event there shall be a separate charge in writing on the points mentioned above, which shall be investigated in the manner provided for cases leading to dismissal.

258. A part of item 8 in Schedule II is, "Whether it (gratuity) should be compulsory or *ex-gratia*". The arguments used in support of the proposition that a bonus is not an *ex-gratia* payment apply equally to the case of a gratuity. We would refer in this connection to the following passage from the case of *C. Bhaktavatsalu Nayudu* v. *The Chrome Leather Co., Limited* already referred to.

> "The granting of bonuses, gratuities, pensions and the like to employees is not out of charity. They are given in order to make labour more contended and form part of the remuneration of the workers for their services."

We are, therefore, unable to regard a gratuity as an *ex-gratia* payment.

259. The last part of item 8 in Schedule II is, "does the scheme recommended by Mr. B. B. Singh for the United Provinces in his award need revision?". Mr. Singh's recommendation was, "all employees after completion of 10 years' meritorious and continuous service should, as a matter of right, be entitled to gratuity equivalent to half month's salary for each year of service subject to a maximum of six months' salary, and after a completion of 20 years' meritorious and continuous service a gratuity equivalent to 12 months' average salary of the previous year. Those who get pension under any other scheme will not be eligible for gratuity". The directions that we have given regarding gratuity are different from these directions to some extent and they will now replace Mr. B. B. Singh's recommendations in this behalf.

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CHAPTER XVIII

Pension Scheme

260. We now take up the next item in Schedule II, "pension, including the question whether any pension scheme should be introduced in banks having Provident Fund/or Gratuity Schemes" (item 9 in Schedule II). Pension schemes now exist in the following banks :

Allahabad Bank, Limited,
Calcutta, National Bank, Limited,
Chartered Bank of India, Australia and China,
Grindlays Bank, Limited,
Imperial Bank of India,
Lloyds Bank, Limited,
Mercantile Bank of India, Limited, and
National Bank of India, Limited.

We do not think it expedient to direct that any bank which has no pension scheme at present should introduce it, although some unions have asked for its introduction in all banks, and the new scheme introduced by the Central Government has several attractive features. The demand for introduction of pension schemes in banks where they do not exist has not been pressed, and no union has attempted to show that a bank which has no such schemes at present is capable of bearing the burden of introducing one. The Government scheme was introduced recently and no party has had any opportunity of scrutinizing or commenting on it. At least one union (Central Bank of India Employees' Association, Madura), is against any pension scheme and another (Indian Bank Employees' Union, Madras) has asked for pension only in case no gratuity is granted. We have already stated that gratuity schemes should be applied where there are no pension schemes with the bank's contributions or where pension cannot be earned; but this proposition should not be construed so as to fetter the discretion of any bank to grant both the benefits should it be inclined to do so.

261. As to the banks where pension schemes exist, the arguments addressed to us by the employees mainly concerned the Imperial Bank of India. It was said that the earning of a pension in the Chartered Bank of India, Australia and China depend upon the discretion of the management and it was contended that this condition should be removed, the pension being made applicable to all. We are, however, not inclined to interfere with a provision of this kind regarding pension, specially as we are not in possession of all the relevant facts. We shall, therefore, consider only the arguments addressed to us regarding the pension scheme obtaining in the Imperial Bank of India.

262. In 1920 the Imperial Bank of India Act (XLVII of 1920) was passed. Prior to that there were three Presidency Banks which had no provident fund but had pension and gratuity funds. In 1921 when a Pension and Guarantee Fund was introduced the bank gave employees in the Bengal Circle an option to choose between gratuity and pension, and they chose the pension. The main demands made with respect to this fund are : (1) that the employees' contributions should stop and the fund should be distributed or merged into the Provident Fund, (2) that a new pension fund to be contributed to by

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the bank alone should be started, the pension being a certain percentage (*e.g.*, 50 per cent) of an employee's last pay, and (3) that all services should be pensionable; at present some members of the subordinate staff are not entitled to pension.

263. Sir Jamshedji Kanga, on behalf of the bank, contended that the Tribunal had no jurisdiction over the Pension and Guarantee Fund which was managed by trustees under a trust deed, dated the 23rd November 1921, the said Fund consisting of Rs. 3,50,000 transferred by a resolution of the Central Board of the bank, dated the 12th July 1921 "and also all other moneys" (to quote the trust deed) "which from time to time may be transferred or paid to the said fund by way of donation, contribution, premia or interest or be otherwise received on account of the said fund upon trust to provide and pay such pensions, gratuities or allowances.....as may be duly sanctioned". Reliance was also placed on section 31 (2) (I) of the Imperial Bank of India, Act under which the Central Board (constituted under section 28 of the Act) may make bye-laws regarding "the constitution and management of pension and provident funds for the officers and servants of the bank", such bye-laws or regulations having actually been made. It was further argued that the employees having agreed to abide by the rules regarding pension they could not be interfered with at their instance, for that would be allowing the employees to approbate and reprobate at the same time. Finally, Sir Jamshedji tried to show that the pension fund was incurring a heavy deficit and that the employee's proposals would impose a still heavier burden on it.

264. There is no doubt that ostensibly a valid trust has been created vesting the fund in trustees. Whether the trust is a valid one is a question which we do not propose to go into. In any case, as it has been acted upon for a number of years, we think that we ought to proceed on the footing that a trust exists, and as the Tribunal did not have the Trustees or all the beneficiaries of the Fund before it, it is unable to interfere with the working of the said fund. The pension section of the Employees' Pension and Guarantee Fund is made up of each member's contribution at 5 per cent of his substantive pay [rule 5A (i) of the Fund] and an equal amount contributed by the bank (rule 6); the pension in each case is debited to the member's account in the pension section of the fund until the balance thereof is exhausted and thereafter to the general balance of the pension section of the fund. The main objection to the said section of the fund is that no employee should be required to contribute towards his own pension and that if that is done and an employee is committed to such contribution by being required to sign an agreement when he joins the bank's service, as the present practice is, that does not detract from the undesirable nature of such a levy, miscalled contribution towards his pension. It is really in the nature of compulsory saving, supplemented by the bank's contribution, such as we are familiar with in the case of provident funds, with the exception of this, (1) that instead of a lumpsum a monthly payment during a member's lifetime after his retirement is assured and (2) that even if his own contributions and the bank's equivalent contribution, with interest, are exhausted, the pension continues to be paid. These are two valuable advantages, not to be lightly thrown away or discarded. But what the workmen want is the institution of a new pension scheme which will enable them to get pensions without having to contribute to it, thus enabling them to make greater contributions to the provident fund or make greater savings. We think that there is great deal of substance in this grievance, as a pension, like a gratuity, should not be

dependent on the employee's contribution and as two compulsory levies—in the case of the provident fund and the pension fund—seem undesirable. The bank authorities, too, do not seem to be very happy about the present Fund, and say that it is sustaining a deficit at present and has to be supplemented every year with large sums transferred to it from the profit and loss account. In these circumstances it seems very desirable that the whole Fund should be reconstituted, making the Pension section of it a Pension Fund in the real sense, and including therein not only the balances remaining out of the three old Presidency Bank Pension funds after the death of their beneficiaries but also, if necessary, bigger annual transfers from the profit and loss account than at present. It may be noted, in this connection, that whereas in the first half of 1949, Rs. 1,39,400 was so transferred in 1922-23 and 1923-24 such transfers amounted to Rs. 5,00,000 each year. An attempt may also be made to graft into the new Fund some of the beneficient provisions of the Central Government's new retiring benefits scheme, *e.g.*, a family pension for a limited number of years in the case of employees who die while in service or shortly after retirement, after putting in a certain number of years of qualifying service. Matters like proportionate pension and commutation of a part of the pension should also be borne in mind. Such a new scheme, however, cannot be instituted without actuarial calculations beforehand and without having secured the prior consent of the Trustees of the existing Fund. We recommend that enquiries should be made as early as possible in this behalf and if practicable the old Fund should be replaced by a new Pension Fund on more enlightened lines, such as are indicated above, than obtain at present.

265. Certain classes of employees are at present excluded from the benefits of the Pension Scheme. Such men in the Bombay Circle are : 2 motor drivers, 9 liftmen, 4 durwans, 30 cleaners, 3 watermen, 36 sweepers, 22 godown keepers and 1 telephone operator ; figures for the other two Circles are not available. Some of these men have already rendered many years of service, and several of them are considered temporary and some as part-time servants. The bank should consider whether any of them can be admitted to the Pension scheme and act accordingly.

266. With these recommendations we leave the matter to the good sense of the bank. We could have got actuarial calculations to be made as to the possibility of starting a new pension fund on the lines indicated above and could have, if satisfied on this point, directed the contribution to the present Fund to cease and the new Fund to be set up in the near future. For this purpose it would have been desirable to make the Trustees parties to these proceedings; but we think that for the present an opportunity should be given to the banks to see whether any arrangement superior to the present scheme can be arrived at ; and we are content to leave the matter, for the present, at that stage. We would also recommend to the other banks where pension schemes exist sympathetic consideration of this question on the lines we have indicated above.

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CHAPTER XIX

Guarantee Funds, etc.

SECTION I

Guarantee Fund

267. We proceed next to discuss the subject of Gurantee Fund (item 10 in Schedule II) and also the allied question, whether the scheme of security and guarantee introduced by the Punjab National Bank, Ltd., is suitable [item 15 (b) in Schedule II.] The only banks in which guarantee funds exist appear to be the Imperial Bank of India and the Punjab National Bank, Ltd. In the Imperial Bank of India there is a combined Pension and Guarantee Fund, in two sections, (pensions and guarantee), established with the object of "providing pensions to the banks' employees and security to the bank against losses arising from dishonesty on the part of employees required to furnish guarantee for the faithful discharge of their duties to the bank". Contributions are required to be paid by every member of the Fund at 10 annas per cent per annum (which rate may be reduced by the trustees) on the amount of the guarantee (Rs. 5,000 for persons drawing from Rs. 100 to Rs. 500 per month, Rs. 10,000 and Rs. 25,000 for persons drawing higher salaries). Any loss which the bank may sustain by the dishonesty of a guaranteed employee is made good in the following order :

(*i*) From the defaulting employees special security if he has been required by the bank to provide special security.
(*ii*) From the guarantee section of the fund.
(*iii*) From the general balance of the pension section of the fund.

No premia paid for guarantees are repayable, they become the absolute property of the fund.

268. In the Punjab National Bank there is an "Employees' Guarantee Fund". In 1945 the bank took out a "Floater Fidelity Insurance Policy" in two parts, from the National Security Assurance Company, in respect of officers and non-officers, the bank paying the premium. The policy was renewed in 1946 and 1947. During these three years a number of cases of defalcation and misfeasance occurred involving a loss of about 10 lakhs of rupees. The whole amount was recovered from the Assurance Company. Thereafter the Company refused to renew the policies. Therefore on the 27th January 1948 a scheme was devised by the bank under which (1) the security amounts required from the employees who had to provide guarantees were raised (for peons to Rs. 1,000, daftries Rs. 2,500 and clerks Rs. 5,000) and (2) where the security for such large amounts could not be found such employees were required to contribute to a Guarantee Fund, the contributions being annas 4 per month for peons, annas 8 per month for daftries and Re. 1 per month for clerks. The bank contributed like amounts. Trustees were appointed, one of whom was a senior member of the staff. No contributions were refundable. In case there was a loss due to dishonestly, etc., it was to be recovered from the cash security of the person in question and his property and thereafter from the bank's contribution to the Provident Fund of the person in question and, lastly from the Guarantee Fund. In the Reserve Bank of India, however, where there is Guarantee Fund, the workmen get back their contributions, but the bank do not contribute anything to the fund. The employees of the Punjab Nation

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Bank wanted such a provision to be inserted and accordingly the bank amended the scheme. The amendment provide that on termination of service or transfer to an appointment where guarantee is not required, if there be any amount to the credit of a person a bonus would be paid and that such bonus would be in the same proportion to the amount standing to the credit of an employee as that which the fund of the group to which the person belongs bears to the aggregate amount standing to the credit of the members of th group in their individual accounts. The bank continues to pay its own contribution to the Fund. There is a further provision that an amount equal to the bonus paid is to be paid to the Punjab National Bank Employees' Association for benevolent purposes in aid of employees, their widows and orphans, etc. That part of the new scheme was objected to by the employees, and in our award dated the 22nd February 1950 (published in the *Gazette of India*, Extraordinary, dated the 23rd March 1950) we recommended an amendment of this provision. Mr. Singh for the bank has suggested that the bank's contribution should be allowed to accumulate as a reserve fund, so that the contribution rates may be reduced in future. Certain banks are anxious to introduce such a scheme, some of them suggesting that there should be no contribution by the bank, on the analogy of the Guarantee Fund in the Reserve Bank of India. It is also said that if such a system be introduced it may be possible to abolish the "treasurer's system", which obtain in many banks today, in a few years' time when the fund has risen to a sufficiently high figure.

269. Employees have made four criticisms of the scheme and its advocacy by the banks (1) that it penalises the large majority of honest and innocent employees for the dishonesty of a few men, (2) that there is no dispute on this question, the employees not wanting such a scheme and no demands having been made in respect of such a fund by any bank, so that the Tribunal has no jurisdiction in the matter; (3) that such a scheme is illegal where (as in some States, if not all) the local Shops and Establishments Act forbids the deduction from an employee's wages of any amount except such as is authorised by such act (see, for instance, section 34 of the Madras Act); and (4) that there are insurance companies which can coyer the risks arising from the employees' acts of dishonesty and misfeasance on the requisite premia being paid by the banks.

270. The first point noted above is sought, to be met by the argument that all are benefited by it, as every employee may be involved in matters like frauds owing to the dishonesty of others and all should be equally interested in preventing frauds, etc., in their bank. This is no doubt true to some extent, but on the whole the criticism that honest people are made to give guarantees against the dishonesty of others has a great deal of force, when it is remembered that the large majority of employees consists of honest people. The second contention of the employees, namely, that there is no real dispute on this question, also appears to us to have considerable force; and we, accordingly, refrain from forcing a guarantee scheme upon any bank where no such scheme exists. As to the third contention, which is a legal argument, it is based on provisions in the Shops and Establishment Acts or Shops and Commercial Establishment Acts in force in the different States. Take, for instance, section 34 of the Shops and Establishments Act (XXXVI of 1947) of the Madras State;

> "34 (1) The wages of a person employed shall be paid to him without deductions of any kind except those authorized by or under this Act.
>
> *Explanation*—Every payment made by a person employed to the employer shall, for the purposes of this Act, be deemed to be a deduction from wages.

"(2) Deductions from the wages of a person employed shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—"

271. Then follows a list of items like fines, deductions for absence from duty, deductions on account of income-tax and a recognised or approved provident fund; but no deduction on account of any Guarantee Fund is mentioned in the said list. In view of such provisions the only argument which certain banks could urge was that the contract regarding payment of the contributions to the fund entered into by the employees must prevail against such provisions. We have grave doubts whether, where such provisions exist, the deduction made as a contribution to such a Fund can be legal.

272. The last argument used by the employees, again, has much substance. Most of the larger banks have not got such a scheme. In Palmer's Company Precedents (Part I, 1938) we find the following observation; "Where the employees of a company or a considerable number of them are required to give security it is not unusual to establish a guarantee fund to which employees and employers both contribute and thus in effect insure each other's interest." It has, however, not been established to our satisfaction that such a scheme is common in the United Kingdom. In any case it is not clear why all employees, and not merely those who handle money or are capable of causing loss to a bank, should be compulsorily made to subscribe to such a Fund. In spite of the Punjab National Bank's experience in the past it has not been established to our satisfaction that no insurance companies would be prepared to give policies to cover the kind of risks contemplated. We find that certain banks, *e.g.*, the Grindlays Bank and the Comilla Banking Corporation, have taken out "Fidelity Guarantee Floater Policies" or "Collective Fidelity Guarantee Agreement Policies" from well-known insurance Companies like the Ocean Accident and Guarantee Corporation, the General Accident Fire and Life Assurance Corporation and Lloyd's London. It is to be remembered that employees working in the cash department of banks are generally each required to give special guarantees for specified sums to the satisfaction of the bank Treasurer or Head Cashier. We, therefore, are of opinion that there is no special merit in Guarantee Funds where they exist and recommend their abolition as early as possible. With this object we direct that no deductions from the pay, wages or allowances of any employee shall be made for the purpose of being paid into any existing Guarantee Fund, and that the banks where such Funds exist shall intimate to the trustees of such funds, as soon as possible, the desirability of either refunding to the employees the amounts standing to the credit out of such funds or adding them to their contributions to the Provident Fund without similar contributions being made by the bank. We further recommend that those whose contributions to any existing guarantee fund will cease under our directions should incur no penalty or liability on that account but should retain any right and benefits which may have accrued to them.

273. The main arguments on which we have reached our present conclusions were not urged before the Tribunal when Item 15 (b) in Schedule II was heard at Dehra Dun in January 1950; hence our present conclusions and the directions we have given above should be deemed to apply to the said item also.

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SECTION II

Cash Deposits, Fidelity Bonds, etc.

274. This is a convenient place for consideration of item 15 (a) in Schedule II, namely, " Cash deposits, fidelity bonds and other securities to be furnished by staff including the question whether failure to furnish such security should operate as a ban on confirmation ". There has been little argument on this item. Certain unions are against all cash deposits and securities altogether, some are in favour of security being taken from the staff working in the cash department alone, which, according to some, should be in the form of fidelity insurance taken out from insurance companies, the premia being paid by the banks. Some unions have urged that the money taken as cash security so far should be ordered to be refunded. One union has suggested that except in the case of dismissals, for which the cash security amount may be forfeited, it should be refunded within a month of the termination of an employee's service. Another union has said that no employee should be required to furnish a cash deposit, fidelity bonds, etc., for his confirmation.

275. In those banks where the " treasurer's system " prevails it undoubtedly reduces the bank's responsibility as to the working of the cash department, for the treasurer or head cashier gives a blanket guarantee for all working under him covering his own risks by taking guarantees, in his turn, from the latter. From the point of the workmen concerned, however, such a system is not to their advantage, for the treasurer's or head cashier's power over them is generally unfettered and hence likely to be abused when such an officer says that a particular workman working under him has forfeited his trust the bank has little option but to discharge him ; and sometimes, it has been alleged, a workman in the cash department who has made himself obnoxious in the eyes of the management is removed on the plea (supported by the treasurer's or head cashier's written statement, given at their suggestion) that the officer in question is unable any longer to repose confidence in him. To the banks also the system is somewhat disadvantageous, *e.g.*, the treasurer or head cashier may introduce his own favourites leading to incompetent work and to resentment by other workmen. It seems to us that the system is a relic from the past and that an effort should be made by all banks to substitute a better and more efficient system. But whether the present system exists or an improved system is introduced, there will always be the need that the risks involved in men being entrusted with the handling of large amounts of cash, and the existence of great opportunities for dishonest practice, should be sufficiently secured against. Apart from Guarantee Funds which we could not approve of, following ways of covering such risks suggest themselves :

(*a*) taking cash deposits in proportion to the risks involved ;

(*b*) making it incumbent on the employees in question to take out fidelity bonds ;

(*c*) the bank taking out fidelity bonds in each case at its own cost, and

(*d*) the bank taking out general or blanket fidelity bonds or policies to cover acts of misfeasance or dishonesty involving losses up to a specified amount. It is difficult for us to lay down an invariable rule to the effect that any of the abovementioned methods is

superior to the others; but it seems to us that all banks should make an effort to see whether policies of the nature mentioned in (d) above can be had, and that in certain cases and situations the methods (a) and (c) can legitimately be resorted to. We desire, however, to lay down two principles which, in our opinion, ought to guide the banks' conduct in this matter:—

(1) a bank should impose as little burden on the employees and take on itself as much of the onus of providing against the risks involved as possible, for the risks are of the organisation as a whole, and in considering the scales of pay, etc., that we have laid down we have not taken into account such burden falling on any of the employees;

(2) as far as possible such burden may be imposed only on the staff working in the cash department and in other positions where facilities for engaging in dishonest practices, likely to involve the bank in loss, exist.

276. Where security is required to be given the rule must, in our opinion, be that failure to furnish the necessary security should ordinarily operate as a bar to confirmation, unless the management otherwise directs. It may, however, be possible to transfer an employee not yet confirmed, who has been required to furnish security, to a post in which no security need be furnished. In such an event, of course, his confirmation, if otherwise warranted, would not be withheld or affected.

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CHAPTER XX

Insurance against old age, etc.

277. We now intend examining the question of insurance against old age, sickness, death or injury from accidents in the course of the discharge of duties (item 11 in Schedule II). Several unions have urged that insurance on such lines should be introduced in all banks, the premia or a portion thereof being paid by them; some have suggested that 45 per cent of the premia should be provided by the banks. One union has mentioned specific sums for which the members of the subordinate staff and the clerical staff should be insured. The provisions of the Workmen's Compensation Act do not apply to workmen working in a bank, owing to the definition of the expression "workman" in section 2 (n) of the said Act, but it has been urged that similar benefits should be conferred on bank employees, seeing that offences like bank robberies and robbery of bank moneys in transit are not rare and involve grave risks to the staff. No such demands have so far been made before the learned adjudicators who have given awards in bank disputes in the past; but somewhat similar demands have been made in certain other disputes referred to adjudication. In a dispute between the Premier Construction Company, Limited[1], and others and their workmen employed at their head offices at Bombay the employer companies in question had a staff insurance scheme by which the employees were enabled to take out insurance policies on their lives on certain concessional terms, the insurance company having given a discount of 25 per cent on the premium inclusive of 16½ per cent borne by the employer companies. This system was directed to be continued. There was a further demand in that case that every employee should be insured against accident, sickness, injury or death while on duty, the premium being payable by the said companies. But this demand was not pressed at the hearing and was rejected. In a dispute between the Tata Oil Mills Company, Limited, Bombay and its workmen[2], one of the demands was that the company should at its cost take out endowment insurance policies covering accident risks to the workmen for sums varying (according to their salaries) from Rs. 2,000 to Rs. 5,000. This demand was made on the ground that the salaries or wages of the employees were too low to admit of any savings and that the provident fund accumulations and the gratuity amounts available were generally too inadequate to provide against old age or premature death. The learned adjudicator Mr. D. G. Kamerkar remarked, "It is difficult to understand on what ground an employer can be made responsible to provide to his employees an endowment assurance policy covering also accident risks. It seems as if the employees are tapping every source possible of pecuniary benefit to themselves and claiming, at the same time, even reduction in the hours of work and increase in the number of holidays" and he rejected the demand. The company in that case had arranged with the New India Assurance Company for a scheme under which all employees of the Company who desired to take out endowment or life policies with the said assurance company would get a rebate of 10 per cent on the premia, a concession continuing even after an employee left the company's service.

1. 1949 I.C.M.R. (Bom.), p. 703.
2. *Bombay Government Gazette*, December 8, 1949, p. 2095.

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278. The following observations of the Central Pay Commission may be quoted :—

> "By way of provisions for the family of persons who may happen to die early in service most of the witnesses who replied to our questionnaire have expressed themselves in favour of some form of compulsory insurance or other. A few have argued that insurance should be voluntary and compulsion is not necessary and that an employee who realises the advantage of insurance could easily avail himself of the facilities offered by private insurance companies. A great many have, however, argued that as far as the ministerial and lower grades of the services are concerned, employees do not normally avail themselves of insurance facilities as a measure of family security and leave their families in straitened circumstances. It was claimed by some that this was due to the fact that such personnel are unable to afford the premia and they, therefore, suggested that Government should meet the cost of insurance without requiring any surrender of a portion of the pensionary benefit or a contributory deduction from the employee's salary. For reasons stressed earlier, we cannot accept the further burdening of the exchequer by recommending free insurance of employees. On the other hand a large body of the employees' representatives realised the value of insurance cover and were inclined to accept as a basis for Government according its employees insurance cover a surrender of some portion of the pensionary benefit. Some were also willing to accept contributory insurance which could be financed by insisting on the employee contributing either directly towards premia or indirectly by diversion through payments out of a provident fund and by Government contributing on the basis of a given reduction from the pensionary benefit. The necessity for providing such an insurance cover was specially emphasised in the case of Government employees whose conditions of service expose them to great accidents and risks, *e.g.*, employees in Mines, Workshops, Dockyards and running staff on Railways. In their case the cover provided by the Workmen's Compensation Act was claimed to be inadequate."

We are of opinion that a bank should not be called upon to provide against old age, sickness or death by taking out any insurance policies in the interests of the employees or their families. But we think that employees should be encouraged to take out endowment or life policies and that they should be so encouraged in at least two ways : (*a*) by allowing them to deduct from their contributions to the provident fund the amounts required to be paid as premia and (*b*) by making attempts to secure favourable terms and concessions for their employees from the insurance companies concerned, as was done in the two cases cited above. As to (*b*) no directions from us are required; and as to (*a*) we recommend that where an employee satisfies his bank that he has taken out an insurance policy approved by the bank and has paid a certain amount as the premium, that amount should be allowed to be deducted from the contribution he is required to make to the provident fund in respect of a period of the same duration as the period in respect of which the premium has been paid, and that inspite of such deduction the amount of the bank's contribution to the provident fund should not be affected or reduced.

279. There are, however, some situations involving a certain amount of risk of a bank's employee. Persons working in the cash department run risks when an armed robbery takes place, and similarly persons accompanying cash in transit run the risk of being shot at or seriously injured by desparate characters. The Workmen's Compensation Act does not apply to banks, but the risks referred to above cannot be said to be less serious than any provided against in the said Act. In the case of any injury suffered by an employee in the course of the discharge of his duties, when such injury results in death or total or partial disablement (as defined in the Workmen's Compensation Act), we think that the bank should give compensation at least on the scale provided by the Act. We direct accordingly. Under the said Act workmen whose salaries exceed Rs. 400 per month are excluded from its scope (see the definition of workman in the Act). We, however, direct that employees with such pay (or their dependants) shall also be paid compensation, which shall be calculated proportionately on the basis of the compensation provided for a workman with monthly wages of Rs. 400 per month. (Schedule IV to the Act.) We understand that usually in such cases some compensation is given to the employee concerned or his family. Where compensation as indicated above is paid by a bank, it would be in a position to recover the amount involved, or a part of it, if it takes out some kind of insurance policy appropriate to the circumstances.

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CHAPTER XXI

Leave Rules

SECTION I

EXISTING AWARDS : PRINCIPLES

280. We propose in this Chapter to deal with the subject of Leave Rules (item 12 in Schedule II). Certain banks have supplied us with copies of their rules relating to leave ; we have found a great deal of diversity in such rules from bank to bank. Various demands have been made regarding leave ; we give below a summary of the majority of them. The demands relate to privilege leave, sick leave, casual leave, special leave, maternity leave, leave preparatory to retirement, recreation leave, quarantine leave and leave of one or two other descriptions.

281. As to privilege leave, one month's or six weeks' leave of this description in a year is demanded, with the right to accumulate it up to 90 days ; one union has demanded that there should be no such restriction. It has generally been contended on behalf of the employees that the grant of such leave should not be contingent on the needs of the administration but should be given whenever demanded as a matter of course. Some unions have suggested the keeping of a leave reserve for this purpose. The demand as to sick leave has generally been for a month every year with full pay and allowances, with the right to accumulate such leave up to 12 or 24 months, the maximum period up to which it can be given at a time being 3 months, according to some unions. It is also contended that the grant of such leave should be independent of other leave, *e.g.*, it should not be debited against the amount of privilege leave available, and that a hakim's or a vaid's certificate as to illness and the need for leave should be accepted by the management. As to casual leave the demands are for 15 days, 20 days or three weeks in a year, one union suggesting that the maximum period for which it may be granted at a time should be six days. Maternity leave for women workers, for three months at a time or six weeks before and six weeks after confinement, has also been demanded.

282. By special leave has generally been meant leave to union officials in order to enable them to attend proceedings of labour courts and tribunals, leave to enable an employee to study for and appear at an examination in banking, law, etc., and such leave as would cover involuntary absence arising out of circumstances other than illness over which an employee has no control, *e.g.*, civil commotion, stoppage of transport owing to a strike where an employee resides at too long a distance.

283. Leave preparatory to retirement for six months or a year has also been asked for. Certain bank employees have also asked for quarantine leave in cases of contagious illness and recreation leave amounting to a month in a year. It has been alleged that " religious leave " is granted in a certain bank only to members professing a certain faith, and it has been contended that such leave should be allowed to other communities also if it be continued in future. Further demands are that the same rules should be applied to the subordinate staff as to the clerical and superior staff ; that leave due should be granted as of right to all employees, but that if it be refused the reason for such refusal

should be conveyed to the applicant; that an employee on leave should get all allowances and the bonus due to him; that casual leave should be allowed to be taken without application or sanction; and that in order to prevent or minimise favouritism all banks should keep a register of leave applications to be entered in the order in which they are received and that they should be dealt with in the same order.

284. The banks, in general, have opposed the granting of more leave than is being granted under the awards or otherwise. They point out that there are too many holidays in this country, as against the existence of only four bank holidays in England, where junior employees as a rule can get only 14 days' leave and senior employees 3 weeks' leave in a year. They have also referred to the provision in regulation 91 of the Reserve Bank of India (Staff) Regulations, 1948 to the effect that special or sick leave may not be availed of if ordinary leave is admissible, and to regulation 77 of the said Regulations: "Leave cannot be claimed as of right. When the exigencies of the service so require, discretion to refuse or revoke leave of any description is reserved to the authority empowered to grant it, and an employee already on leave may be recalled by that authority when it considers this necessary in the interests of the service". To the same effect is the opinion given by the Chairman of the U.P. Conciliation Board at page 29 of the book printed as the award of the said Board. It is pointed out that the leave allowable under the Shops and Establishments Acts enacted by the different States is appreciably less than the leave now demanded (see, for instance, section 35 of the Bombay Shops and Establishments Act, 1948 and section 13 of the U.P. Shops and Commercial Establishments Act, 1947).

285. Mr. B. B. Singh recommended the following scale of leave in his award regarding the majority of banks in the U. P.:—

	Clerks, cashiers and supervisor staff including Officers.	Menials.
Casual leave	14 days in a year on full pay and allowances.	15 days in a year with full pay and allowances.
Privilege leave	30 days in a year on full pay and allowances which can be accumulated up to a maximum of three months in three years.	6 weeks in two years with right of accumulation up to 12 weeks in four years on full pay and allowances.
Sick leave	30 days in a year on half pay on the production of suitable medical certificate.	30 days in a year on half pay on the production of a suitable medical certificate.

Mr. Singh directed that all privilege leave should become due after 12 months' completed service.

Divatia, J. laid down the following scales of leave:—

Big Banks:

One month's privilege leave in a year with full pay and allowances which could be accumulated up to 3 months in the case of the clerical staff and 2 months in the case of the subordinate staff; ten days' casual leave in a year with full pay and allowances, out of which not more than 4 days could be taken at one time, or 6 days which combined with gazetted holidays; sick leave on half pay for one month for each year's service on a certificate from a registered medical practitioner, subject to a maximum of 12 months in all during the whole service, additional leave being allowable at the bank's discretion, provided that such leave was dependent on privilege leave being available and that in special

case of hardship full pay might be granted for six months during the whole service; leave without pay in cases where no other leave was due, at the discretion of the bank.

Small Banks:

Three weeks' of privilege leave in a year which could be accumulated up to 9 weeks for the clerical staff and 6 weeks for the subordinate staff; sick leave on half pay for 3 weeks in a year, subject to a total period of 9 months during the whole service subject to such leave being allowable on full pay in cases of special hardship for half the said period; other leave on the same scale as applied to the big banks. In the case of female employees in all banks maternity leave for 3 months with full pay was allowed in addition to sick leave.

286. The directions given by Mr. R. Gupta in the case of the Imperial Bank of India, Bengal Circle, were similar to those of the Divatia award regarding big banks.

287. To take two awards from Bombay regarding clerks in institutions other than banks, members of the clerical staff in the Tata Oil Mills,[1] in an award given by Mr. D. G. Kamerkar in November 1949, were allowed 30 days' privilege leave in a year, the limit of accumulation being 3 months, sick leave on full pay and allowances for 7 days for each year of service or on half pay and allowances for 14 days on production of a medical certificate, not more than 91 days on full pay and allowances or 182 days on half pay and allowances being allowed during the entire service. After 6 months' service casual leave for 7 days in a year was allowed. In the Textile Clerks' Award made by Mr. M. C. Shah in October 1948[2] clerks were allowed privilege leave for one month in a year for every year of completed 12 months' service with full pay and allowances, one month's sick leave in each year subject to a maximum of 12 months in the entire service, and 10 days' casual leave in a year, an employee not being eligible to take more than 4 days' such leave at a time.

288. Some of the observations of the Central Pay Commission appear to us very pertinent and appropriate with reference to the principles relating to leave which were discussed at the hearing. We reproduce below the important of them

> "It cannot be disputed that leave rules, especially those which impose on the State the burden of paying full salary to an employee when he is on leave, should be framed with due regard to his need for rest on the one hand and to the public interest on the other. It stands to reason that two considerations have a material bearing on this need—(i) the employee's age and length of service and (ii) the nature of his work. The older a man grows, the greater will be his need for rest. It may also be said that a person who has loyally served the State for a great many years has a greater claim on the State than one who has served only for a shorter term. The situation is analogous to the calculation of a person's pension in proportion to the length of his service. The principle of varying the period of annual leave according to the length of service is well established in England and applies to the upper as well as to the lower categories of public servants. It also stands to reason that the need for rest and the length of rest needed depend to large extent on the nature of the employee's occupation, the conditions in which he has to work and the burden of

1. *Bombay Government Gazette*, December 8, 1949, p. 2095.
2. 1950 I.C.R. (Bom.), p. 27.

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responsibility resting on him. Physical strain, though tiresome at the moment, does not produce the same harmful effects on one's health as mental strain. If the remuneration of public servants can be regulated with due regard to considerations like the above, there is nothing unreasonable in regulating their leave also with due regard to the same considerations. This principle of differentiation is also recognised in England." 1

"As will be presently seen, we are recommending certain changes calculated to reduce the half pay leave. The case of persons who are obliged to take leave on the ground of illness, however, seems to us to merit special consideration. That is just the time when the employee may be put to considerable expense and it will be a great hardship to place him on reduced pay during that period. It does not seem to us right in principle to insist on his using up his earned leave during his illness. The earned leave is intended for normal rest and recuperation. An illness, which according to the doctor's certificate requires and warrants his remaining on leave for several months must be dealt with in a class by itself." 2

"A person who had officiated, say for 12 months, in a higher post, found it more advantageous to go on leave at the end of his officiating period than to revert to his substantive post and during the whole period of his leave his salary would be calculated with reference to the pay of his officiating post, though most of his leave had been earned not during the officiating period but much earlier. We are not prepared to encourage this course." 3

"We think that as a matter of principle, public servants should not merely be encouraged but even compelled to take leave at short intervals so that the public service may have the benefit of their return to duty in renewed health." 4

"The theory that leave is not a matter of right must like all similar theories be invoked only as the last resort and every endeavour should be made to oblige and even encourage public servants when they wish to avail themselves of leave which they have earned." 5

SECTION II

Earned Leave, leave on half-pay, etc.

289. The Government of India considered the recommendations of the Central Pay Commission and modified their Revised Leave Rules, 1933 by publishing a new set of leave rules in February 1949. We are of opinion that those new rules, in combination with the rules relating to leave in the Model Standing Orders for the Banking Industry published by the Government of Bombay in October 1948, furnished to us useful models for the formulation of leave rules. On a due consideration of the said rules and of those laid down in the existing awards we give the following directions.

1. Paragraph 142, page 72.
2. Paragraph 144, pages 79 and 80.
3. Paragraph 147, pages 80 and 81.
4. Paragraph 148, page 81.
5. Paragraph 149, page 82.

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(A) *Permanent Employees and Probationers*

(1) The earned leave admissible to a permanent employee or a probationer shall be the following fractions of the period spent on duty in the cases shown below :

Class of Banks.	Employees not belonging to the subordinate establishment.	Employees in the subordinate establishment		
		1st 10 years of service.	Next 10 years of service.	After 20 years of service.
A	1/11	1/22	1/16	1/11
B	1/15	1/22	1/18	1/15
C	1/18	1/22	1/20	1/18

(2) Such an employee shall cease to earn such leave when the earned leave due amounts to the following number of days in the cases shown below :—

Class of Banks.	Employees not belonging to the subordinate establishment.	Employees in the subordinate establishment		
		1st 10 years of service.	Next 10 years of service.	After 20 years of service.
A	90	60	75	90
B	80	50	60	80
C	60	45	52	60

(3) The following number of days of leave on half pay shall be earned by each such employee for each completed year of service in the cases shown below. Such leave shall be available on private affairs as well as on the ground of illness :—

Class of Banks.	Employees not belonging to the subordinate establishment.	Employees in the subordinate establishment		
		1st 10 years of service.	Next 10 years of service.	After 20 years of service.
A	18	12	15	18
B	15	10	12	15
C	12	7	10	12

(4) Such an employee shall have the option of having the half pay leave due converted into half the amount of full pay leave, the latter being termed "commuted leave". It will be granted only on the ground of illness, subject to the following limits during the entire service :—

Class of banks.	Employees not belonging to the subordinate establishment.	Employees in the subordinate establishment.
	Days.	*Days.*
A	180	160
B	160	140
C	140	120

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(5) Leave not due may be granted on the ground of private affairs as well as of illness, such leave being limited to 180 days in the case of class A banks, 160 days in the case of class B banks and 150 days in the case of class C banks, during the entire service. Leave not due shall be debited against the half pay leave which the employee earns subsequently. Leave not due may be granted only if the sanctioning authority is satisfied that there is a reasonable prospect of the employee returning to duty on the expiry of the leave and earning an equal amount of half pay leave thereafter.

(6) A female employee shall be entitled to maternity leave not exceeding three months at a time for purposes of confinement and recuperation thereafter, such leave being in addition to earned leave and leave on half pay.

(B) *Temporary employees*

(7) On completion of one year's continuous service an employee who is temporary shall be eligible for the leave terms laid down for permanent employees and probationers except that he will not be eligible for any leave not due. The provisions relating to earned leave shall not have any retrospective effect, *i.e.*, he shall begin earning leave at the rate mentioned in paragraph (1) only from the date on which the second year of his service commences. He shall, however, be eligible for half pay leave in respect of the first year of his service at the rate mentioned in paragraph (3).

(8) In respect of the first year of his service the earned leave admissible to a temporary employee will be—

(*a*) to an employee not belonging to the subordinate establishment—one-twenty-second of the period spent on duty;

(*b*) to an employee in the subordinate establishment—one-thirtieth of the period spent on duty.

Explanation.—The term "first ten years of service" "next ten years of service" "twenty years of service", "completed year of service" or "one year's continuous service" used in the foregoing paragraphs means continuous service in the same bank of the specified duration and includes periods spent on duty as well as on leave.

SECTION III

Leave Salary

(9) An employee on earned leave shall be entitled to leave salary equal to the greater of the amounts specified below :—

(*a*) the pay and dearness allowance payable on the day before the leave commences, or

(*b*) (1) in respect of the first 45 days of the earned leave, the average monthly pay and dearness allowance earned during the 12 complete months preceding the month in which the leave commences, and

(2) thereafter the average monthly pay and dearness allowances earned during the 36 complete months preceding the month in which the leave commences.

(10) An employee on half pay leave or on leave not due shall be entitled to leave salary and allowances equal to half the pay and dearness allowance or half the amount specified in clause (2) of paragraph (9) (*b*), whichever is greater.

(11) An employee on commuted leave shall be entitled to leave salary equal to twice the amount admissible under paragraph (10).

(12) A female employee on maternity leave shall be entitled to pay and allowances on the scale provided in paragraph (9).

SECTION IV

Casual Leave

(13) Every employee shall be entitled to casual leave up to the number of days in a year shown in the table set out below :—

Class of banks.	Employees not belonging to the subordinate establishment.	Employees in the subordinate establishment.
	Days.	*Days.*
A	15	12
B	12	10
C	10	8

(14) Casual leave shall be non-cumulative and no leave of any other kind shall be allowed to be combined with such leave. Not more than four days' casual leave shall be granted at one time, to be extended to eight days in most exceptional circumstances. Sundays or other holidays which precede or follow a period of casual leave may be prefixed or affixed to such leave.

(15) Ordinarily, the previous permission of the sanctioning authority shall be obtained by an employee before taking such leave. When this is not possible, the said authority shall, as soon as may be practicable, be informed in writing or orally or through any person of the employee's absence from work and of the probable duration of such absence.

(16) In respect of any period spent on casual leave an employee shall be entitled to pay and allowances as if he was on duty.

SECTION V

Procedure, etc., as to other kinds of Leave

(17) (1) An employee who desires to obtain leave of absence other than casual leave shall apply in writing to the sanctioning authority. Such application for leave shall be made not less than one month before the date from which the leave is to commence, except in urgent cases or unforeseen circumstances including sickness when it is not possible to do so. The sanctioning authority shall issue orders on such application as soon as practicable, and in cases of an urgent nature immediately. If the leave asked for is granted, an order showing the date of commencement of the leave and date on which the employee will have to resume duty shall be issued to the employee.

(2) If leave is refused or postponed, the reason for the refusal or postponement as the case may be, shall be mentioned in the order, and a copy of the order given to the applicant.

(3) No leave or extension of leave shall be deemed to have been granted unless an order to that effect is passed.

(18) If an employee after proceeding on leave desires an extension thereof, he shall make an application in writing to the Manager or other officer appointed for the purpose. Such application shall state the full address of the employee and shall be made in sufficient time to enable a reply to be given to him before the expiry of the leave desired to be extended. A written reply either of the grant or refusal of extension shall be sent to the employee at the address given by him as early as possible.

(19) Unless he is permitted to do so by the authority which granted his leave, an employee on leave may not return to duty more than fourteen days before the expiry of the period of leave granted to him.

SECTION VI

Miscellaneous

(20) The granting of leave other than sickness and maternity leave shall be subject to the exigencies of the bank's business. The bank may notify in advance to any employee, by circular or personally, the periods when or within which privilege leave will be granted.

(21) Leave without pay may at the discretion of the bank in special circumstances be granted to an employee when no other leave of any kind is due.

(22) All holidays, including the weekly holidays falling within the period of any kind of leave, shall be treated as leave.

(23) The bank may require an employee applying for sickness leave or maternity leave to produce a medical certificate in support of his or her application from a registered medical practitioner, Government medical officer or a registered vaid or hakim and may require the applicant to be examined by a medical officer appointed for the purpose at the expenses of the bank.

(24) An employee shall be entitled to retain to his credit any leave that may be due to him under any existing rules applying to him in any bank on the date on which this award comes into operation. Such leave shall be added to his leave account to any leave he may earn after such date.

(25) Leave at the credit of an employee shall lapse on the date of his retirement, provided that if in sufficient time before that date he has—

(1) formally applied for leave and been refused it, or

(2) ascertained in writing from the sanctioning authority that leave if applied for would not be granted, in either case the ground for refusal being the exigencies of the administration, then the employee may be granted, after the date of retirement, the amount of leave so refused subject to a maximum of three months.

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SECTION VII

Other Demands

290. Certain employees' unions have asked for "quarantine leave" in cases of contagious illness and for recreation leave amounting to a month in a year. We do not think that any separate provision for either kind of leave is necessary.

291. As to the "religious leave" alleged to be given to employees belonging to a particular religious persuasion, presumably for the purposes of religious pilgrimage, we direct that no bank shall observe any discrimination between members of different communities in the matter of granting leave.

292. Leave concessions having been demanded for officials of unions with the object of enabling them to attend proceedings of labour courts and tribunals. This Tribunal has found it necessary to direct that the absence from duty of such representatives of banks' employees as have had to attend our proceedings should be treated as if the period of such absence was spent on duty. We think it unnecessary to give any direction on this question, for the court or tribunal concerned would ordinarily be able (except perhaps where a dispute arises between workmen and workmen) to give similar directions in such proceedings.

293. Similarly as regards demands for leave, to enable an employee to study for and appear at an examination in banking, law, etc., such demands have not been strongly pressed and we think it best not to give any directions. If a bank thinks it necessary to encourage its employees to study for and pass such examinations, it will not be precluded from considering the making of appropriate rules in this behalf. As to leave covering involuntary absence owing to circumstances other than illness over which an employee has no control, we again see no sufficient grounds for giving any specific directions.

294. There remains the question of a leave reserve. With regard to Government departments it seems that leave reserves on the basis of certain percentages of the staff are maintained in certain cadres in which specialised training is necessary and it is felt that raw recruits cannot efficiently fill vacancies. It is believed that the percentage of leave reserve in the departments of the Government of Bombay varies from 10 to 14 per cent. The percentage of leave reserve in the Posts and Telegraphs department of the Central Government is 17 and in the Railway Mail Service it is 20[8]. Such reserves are referred to in paragraph 149 of the Central Pay Commission's Report. The subject was discussed at length with reference to the Indian Government Railway Administration concerned in Mr. Justice Rajadhyaksha's award[9] on the trade dispute between such Administration and their workmen.

295. The only award which we have been able to find in which a leave reserve was provided for is an award made by Mr. P. S. Bakhle, Industrial Tribunal, Bombay, on a dispute between the Bombay Gas Company, Limited, Bombay and its workmen[10]. There it was urged on behalf of the company that generally a large number of employees apply for leave during the months of

8. Rule 249 in the Posts and Telegraph Manual, 1941, Volume IV.

9. Rajadyaksha J's award in the trade dispute between the nine Indian Government Railway Administrations and their respective workmen, paragraphs 409 to 428.

10. 1948 I.C.R. (Bom.), p. 781.

April and May every year and that it would be difficult to maintain a leave reserve to meet that contingency. The Tribunal referred to the following observations of the Central Pay Commission in paragraph 149 of their Report :

> "It will be unreasonable to suggest that the leave reserve should be calculated with reference to the simultaneous demands by a number of employees. Public servants will do well in their own interests as well as in the interests of the service to let the head of the office know sufficiently in advance of their intention to take leave. They must also co-operate between themselves and with the head of the office so as to distribute their leave periods in convenient manner."

296. We think that it would be a good thing, at least for the bigger banks, to maintain such reserves ; we believe that it would be ultimately to the interest of the banks to build up such reserves. But the object in view would perhaps be practically attained by following the recommendation we have made in Chapter XXIV as to the maintenance of registers of qualified candidates ; and we are of opinion that it would not be expedient for us to go beyond this and give any directions on this question.

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CHAPTER XXII

Hours of work, overtime, etc.

SECTION I

Hours of work

297. We shall now proceed to the following two matters :

(1) Hours of work and overtime.

(2) Should shops and commercial acts and similar provincial enactment apply to all banks without exception? (Items 13 and 35 in Schedule II).

298. As to hours of work, the demands are usually for 7 hours a day on week days, with an interval of half an hour or one hour for the luncheon interval and 3 hours on Saturdays. One union has asked for a 39 hour week and another that the working hours in a week should not exceed 33 hours. Mr. B. B. Singh in his award regarding the majority of banks in the U. P. has prescribed the hours 9-30 A.M. to 5-30 P.M., with an hour's recess, for week days (excluding Saturdays) and 9-30 A.M. to 4-30 P.M. for Saturdays, with half an hour's recess. Mr. R. Gupta in his award regarding the Imperial Bank of India has fixed 10 A.M. to 5 P.M. with half-an-hour's recess for week days (excluding Saturdays and 10 A.M. to 2 P.M. for Saturday as the working hours. Mr. S. K. Sen in his award regarding the Calcutta branches of the Central Bank of India has prescribed similar working hours. Divatia J in the Bombay award did not fix the working hours as standing orders for banks were in the process of formation and it would be open to either party to appeal against the orders of the Commissioner of Labour, Bombay, fixing such hours. Mr. B. B. Singh observed : "There is no doubt that many banks do not observe any strict hours of work and a good many clerks have to stay up very late. This state of affairs is not conducive to the health or the efficiency of bank employees."

Mr. R. Gupta remarked :

> "Everything considered, I thing there is considerable force in the Association's grievance that in many of the bank's offices, specially in the mofussil, very long hours of work are the rule rather than the exception. In saying this I have not lost sight of the bank's argument that long hours may sometimes be the result of bad work on the part of the employee. Undoubtedly this is so in some cases, but generally speaking bad work would hardly be tolerated from any employee by the bank for any length of time. The bank has stated that it is most anxious not to overwork its employees".

Mr. S. K. Sen noted that in the United Kingdom, "where the lunch hour is one hour, *viz.*, from 1 to 2 p.m., the office sits from 9 to 1 and 2 to 4-30, *i.e.*, 6½ hours as recommended by the Central Pay Commission". The Central Pay Commission, in paragraph 96 of their Report, said that "normal office attendance might reasonably be fixed at 38½ hours a week so as to provide for 6½ hours of actual work on each week day after allowing half an hour for lunch and 3½ hours of work on Saturdays".

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299. We think that excluding the luncheon recess, which should not be less than half an hour on week days, (there being no recess on Saturdays) every employee not belonging to the subordinate staff should attend to his work for 6½ hours a day on week days (excluding Saturdays) and that on Saturdays he should work for 3½ hours, that in the case of members of the subordinate staf the corresponding periods should be 7½ hours and 4 hours a day respectively and that the banks should be left to fix at their discretion the actual hours of the day during which such work should be done. We direct accordingly. We agree with the following remarks to be found in the written statement filed by the Central Bank of India :

> "If the hours of work as claimed by the employees and are laid down by the various awards are to be literally and rigidly followed, many anomalous positions would be created and undue burden would be placed on banks which could not have been intended by the Tribunals of Adjudicators who gave the awards. There are several types of work in a bank which cannot be carried on within the fixed hours laid down in the awards, *e.g.*, Cash-book Writers, Supplementary Writers, whose work arises late in the evening after hours of work intended for customers are over, despatchers who must take up work in connection with posting of letters after they are signed by the Officers sweeping and clearing of bank premises and opening and locking up thereof which must necessarily be done before or after the fixed hours. To laydown that such men also must work within the fixed hours when there is no need for their work or when for the most part they would be idle, is to ignore the realities of the situation and make banks pay for idleness and no work. Moreover, if such an interpretation is to be put on the idea of fixed hours, banks would be required not only to pay the usual remuneration, but also overtime, because their work must necessarily be done for the major part, if not totally, outside the fixed hours".

We agree that where rigidity in the observance of the usual hours of work is not possible or desirable a bank may relax them to the necessary extent. If in any bank the present hours of work are less than those we have laid down it would have the right to raise their number to the level prescribed.

300. The United Commercial Bank, Limited, in its written statement, has complained that "employees in general waste a lot of their time in idle gossip, lethargy, malingering and inaccurate work with the result that the ratio of concentrated work to actual attendance is not more than 50 per cent". It seems to us that there is a certain amount of truth in this complaint, at least with regard to employees in certain banks. It should, however, be the business of the banks concerned to eliminate such wasteful conduct from their employees by taking appropriate measures, which need not always consist in disciplinary action.

SECTION II

Overtime

301. We now come to the subject of overtime. There are three views on the subject: (1) that there should be no provision for overtime work; if necessary additional staff should be engaged; (2) that the amount of overtime work that an employee may be required to put in should be limited, say, to

60 hours in a year; and (3) that there should be no such restriction, such work being paid for at higher rates than usual as provided in the local Shops and Establishments Acts, or such other rates as the Tribunal may determine if it has the power to alter the rates fixed by those Acts.

302. Mr. R. Gupta has taken the first view in his award regarding the Imperial Bank of India:

He said:

> "I do not propose any overtime wages for extra work on ordinary days, because I expect the bank at once to examine the staff position at all its offices and so to increase the staff that it will not be necessary ordinarily for any employee to work longer than the above hours. In my opinion this is the proper remedy for the defect complained against, rather than making provision for overtime wages. Such provision often leads to continuance of the objectionable practice of working employees long hours because the employer finds it cheaper to pay overtime than to engage additional staff, and thus the real objective, *viz.*, saving the staff from fatigue and strain, is not attained. I appreciate fully that in an institution like a bank it is not possible for every employee to down tools on the stroke of 5 P.M. and go home. Occasionally, it may be necessary for an employee to stay on in order to complete the day's work. This happens in every office and is inevitable. What must be stopped is the systematic over-working of staff. If the bank, by examining the staff position in all its branches, is unable to introduce the desired change within a period of, say, six months from the date of this Award it will be for the Association to take up the Issue again, which I think it is quite powerful enough to do. The Association must at the same time clearly understand that the fixing of office hours does not mean that everyday every employee will be able to put down his pen at 5 P.M. and go home. A reasonable view must be taken. As regards what is described as the Balance Team, which at present has to work extra hours every day at the Head Office, it will continue to receive over-time wages as at present if it is found impossible to discontinue it by increasing the number of the staff under the general revision which I have proposed".

303. We are inclined to agree in general with these observations, but as not many of the employees' representatives have asked for the total abolition of the overtime system, which is recognised in the Shops and Establishments Acts, we think that we should be justified in restricting total number of hours for which an employee may be required to work overtime in a year; and we, accordingly, direct that no employee shall be required to do more than 90 hours' overtime work, or with his consent more than 120 hours' work, in any calendar year, the meaning to be attached to "overtime work" being such work as is in excess of the amount of work fixed by us, subject to any provisions specifically mentioned in this Award. As regards the rates of payment for such work, we find that the provisions to be found in the different Shops and Establishments Acts are not uniform and that no local Acts relating to overtime work have been enacted in the States of Bihar and Orissa nor in respect of the centrally administered areas of Ajmer and Coorg. We direct that where an employee is required to work in excess of the work fixed by us, he shall be entitled, in respect of the overtime work, to pay at the rate of twice his ordinary rate of pay.

304. As to the work done in banks on the two days in the year which are declared public holidays because of half-yearly and yearly closing of banks accounts, we agree with Mr. R. Gupta in his remark that bank employees must not mind doing extra work for their employers on those days which are declared public holidays specifically for the said purpose; but we direct that where it is customary in any bank to make any extra payment for such work it shall continue to be paid. As to work done on other holidays, we recognise that sometimes it may not be possible for a bank to avoid such work, *e.g.*, when there are several holidays on consecutive dates. But we direct that such work shall be reduced as much as possible and that it shall be paid for at overtime rates.

SECTION III

Applicability of Shops and Establishments Acts

305. We have now to deal with the question whether Shops and Commercial Establishments Acts and similar provincial enactments should apply to all banks without exception. It is somewhat difficult to understand what exactly is the scope and meaning of this question. Possible cases of conflict between provisions in such Acts and our directions have been discussed by the parties, the banks generally contending that no direction from us can override such provisions and the employees' representatives contending that if such a view be adopted, much of what the Tribunal may decide, *e.g.*, as to overtime, may become nugatory, and that as such Acts are intended for a large number of institutions or establishments of very different kinds, and thus only the largest common factors can enter into such enactments, the relief afforded by them are necessarily small and must be regarded as the minimum to be afforded by the employers. We think that there is a good deal of force in the employees' contentions. Take, for instance, the following provision regarding leave in sub-section (1) of section 35 of the Bombay Shops and Establishments Act, 1948:—

> "Every employee who has worked for not less than two hundred and seventy days during a year, shall be allowed, during the subsequent year, leave, consecutive or otherwise, for a period of not less than fourteen days, inclusive of the day or days during the period of such leave, on which, a shop or commercial establishment remains closed under sub-section (1) of section 18 or he is entitled to a holiday under sub-section (1) of section 24 or section 31; provided that such leave may be accumulated up to a maximum period of twenty-eight days".

306. In the directions which we have given in the last Chapter we have not laid down the condition of having worked for not less than 270 days in the previous year; the period of earned leave prescribed by us in the case of clerks exceeds 14 days in a year; and the period for which such leave may be accumulated under our award is also more than 28 days. It may be contended that the expression "not less than 14 days" is not inconsistent with such periods of earned leave as we have allowed, but that the other two conditions to be found in the abovementioned section must retain their effect and prevail over our directions. It is, however, to be remembered that the main object of these Acts is the protection of the employees, and in the section quoted

above the first condition purports to be one on fulfilment of which the employer is *bound* to grant leave to an employee; he is not precluded or prevented from giving leave to an employee even if he should not have worked for 270 days in the previous year; nor is he prevented from giving more leave than is provided for. As to the proviso at the end of the section that, again, appears to have been inserted with the object of encouraging him to take leave whenever possible, not with a view to penalising him. An employer is, again, not precluded from allowing the accumulation of leave to a greater extent than allowed by the proviso. Thus where inspite of any provision in any such Act it would be open to an employer to give additional relief or advantage to an employee in his establishment, it would be legitimate for this Tribunal (so to speak) to make an agreement between the parties relating to such relief or advantage (see Chapter II regarding the functions and jurisdiction of Industrial Tribunals). In our opinion all cases of conflict between the Acts in question and our award are to be viewed in the light of the considerations set out above. We have not been referred to any possible instances of conflict between our award and the Acts in question which cannot be resolved by the application of the said considerations; and we do not, therefore, propose to expatiate on the somewhat indefinite subject matter in question to any greater extent. If any party finds it necessary to get a declaration from any Court regarding such a conflict which leads to an unsatisfactory or embarrassing position, it would be for that Court then to ascertain and give effect to the correct position in law. Where there is not even an apparent conflict between our award and any local Shops and Establishment Act, the provisions of such Act, so far as they apply to the banks, will, of course, be operative.

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CHAPTER XXIII

Medical Aid and Expenses

307. We shall now deal with the question of medical aid and expenses (item 14 in Schedule II). This main demands of the employees on this subject are as follows :—

(1) employees and their families should be entitled to free medical treatment including medicines, injections, etc., necessary for such treatment;

(2) the doctor appointed by a bank for treating its employees should be one not living so far from the bank that his services would not be easily available to the employees;

(3) such doctor should be available for examining and prescribing for an employee or a member of his family at his residence, if necessary;

(4) at least the bigger banks should arrange to reserve beds for their employees in State hospitals at the headquarters, special arrangements being made for employees suffering from tuberculosis, which is common among bank employees;

(5) the small banks may combine and have a panel of doctors jointly for their employees and their families;

(6) the banks should combine and open their own dispensaries for the supply of medicines to their employees and their families;

(7) whatever amenities are provided for the officers of a bank in the way of free medical treatment should be available to the other employees.

Mr. B. B. Singh dealt with this subject in the following way :—

"The banks concede that in some malaria districts they have arranged for free supply of medicines. But there is no general practice of giving free medical aid to all employees and their family. The Allahabad Bank says that the solution of that problem lies in the establishment of a Bankers' Health Insurance Society on a voluntary subscription basis. I commend this scheme to all the banks, specially of class 'A'. I also recommend that at big centres all 'A' class banks should have a system of part-time medical practitioner, attending at fixed hours at a fixed place for free consultation by the employees of the banks. Medical attendance on the families of the employees is a bigger problem and I do not think that the banks in this country are in a position just now to undertake it. I, therefore, recommend free medical consultation for all the employees of class 'A' and class 'B' banks, and decide the issue accordingly." In the Bombay award the following directions were given :—

> "All the big banks should have a medical officer who can be consulted free of charge by the employees. It would be voluntary on the part of the banks to supply medicines free of charge. This, of course, will be limited to employees and would not apply to the other members of their family. In the case of small banks, I do not think they should be compelled to engage a doctor for consultation by the employees free of charge."

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Mr. R. Gupta found that the arrangements made by the Imperial Bank of India, Bengal Circle, were that there was a doctor appointed to attend on the employees at Calcutta, Kanpur and possibly at one other place, who examined and prescribed for them but that the bank did not pay for any medicine, etc., required except for certain elementary specifics kept at the dispensary attached to some of its offices. He was unable to concede the demand for free supply of medicines or for the free treatment of the employees' families. The bank had a rule that its doctor will attend on clerks at their homes in Calcutta when necessary free of charge, and he directed that that rule should be enforced, not only at Calcutta but other places where the staff was large enough to necessitate the retention of a wholetime medical officer. He also suggested that the medical officer at Calcutta should visit the Calcutta branches once a day or once every other day and that in the mofussil branches the bank should arrange that the employees might visit the senior local Government doctor or a private practitioner of local repute at the expense of the bank. Mr. S. K. Sen in his award regarding the Calcutta branches of the Central Bank of India followed the Bombay award.

308. The employees' representatives have relied on the fact that an employee of the Central Government or of a State Government is ordinarily entitled to free medical treatment, including all medical and surgical facilities available at a Government hospital and the supply of such medicines, vaccines, sera or other therapeutic substances as are ordinarily available at such hospitals, and that the members of the families of the Central Government servants are also entitled free of charge to medical attendance and treatment at Government hospitals on the scale and conditions allowed to the Government servant in each case. [See the Central Service (Medical Attendance) Rules 1944 and the Central Government Finance Department's office memorandum No. F.-12 (f)-W.II/45, dated the 18th April 1945.] The employees demand that similar facilities should be provided by the banks, and that, if necessary, several banks should join together in retaining the services of physicians and in reserving accommodation in hospitals for this purpose. The banks have contended that the health of the other members of an employee is no concern of theirs, and that in many Western countries medical aid to workers and other citizens is considered to be a responsibility of the State concerned. It may be pointed out that the International Labour Organisation at its 26th Session held at Philadelphia in 1944 drew up a Social Security programme including compulsory social insurance schemes covering, *inter alia*, sickness, maternity and invalidity; and that some States have drawn up comprehensive social security plans, *e.g.*, the Beveridge Plan in England, the Wagner-Murrey Plan in the United States of America and the Marsh Plan in Canada. Social insurance has not, however, made much progress in India. The only forms of social insurance undertaken in India are the Workmen's Compensation Act, 1923, enactments regarding maternity benefits in several States and certain sickness benefit schemes initiated by certain industrial concerns [see Prof. Adarkar's Report on Health Insurance for Industrial Workers, (1944).]. The employees' State Insurance Act was passed in 1948. It applies initially to all perennial factories, and it provides that the appropriate Government may, in consultation with the Employees' State Insurance Corporation set up under the Act and with the approval of the Central Government, after giving six months' notice extend the provisions of the Act to any other establishment or class of establishments. Under this Act, out of contributions made by the employers and the employees the latter are to be insured against sickness, confinement in

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the case of females, disablement or death as a result of an employment injury and the expenses of medical treatment and attendance. Till the Act or a similar enactment comes into force, some provision for medical aid and expenses appears to be necessary; and the directions given by us below should be understood as subject to this qualification.

309. We are unable to accede to the demand regarding medical aid to the employees' families. Government are able to provide for such facilities without much extra cost owing to their existing medical services and institutions like State hospitals and dispensaries. It is also to be remembered that expenses owing to medical aid and attendance in respect of an employee's family have already been included in the calculations regarding the cost of living, although the expenses shown in Mr. Subramanian's Report may have been inadequate in the lower income-groups among the employees of the Central Government owing to the general inadequacy of their earnings. We have decided that as regards the employees the responsibility for medical treatment and attendance shall be greater in the case of the banks of class A than in the case of the other banks, and, as we have already said, we have made no deductions on this account from our estimates as to the cost of living. If any bank is at present providing for such treatment and attendance in respect of its employees' families, we direct that such facilities should continue to be afforded. We give the following directions in respect of the banks in Class A1.

(1) Each bank shall appoint a medical practitioner (to be referred to hereinafter as the authorised doctor) for attendance on and treatment of its employees.

(2) Every employee shall during illness be entitled, free of charge, to attendance and treatment by the authorised doctor, whose bills shall be paid by the bank concerned.

(3) the expression "attendance" shall include such methods of examination as are considered necessary by the said doctor, and in case of illness which compels an employee to be confined to his residence, attendance and such examination at his residence, as well as such consultation with a specialist or other medical practitioner as the said doctor may find necessary.

(4) The expression "treatment" shall mean the use of all medical and surgical facilities as are available to the authorised doctor and are found necessary by him; and shall include—

(a) the supply or procurement of such medicines, vaccines, sera or other therapeutic substances as the authorised doctor may certify in writing to be essential for the recovery, or for the prevention of serious deterioration in the condition, of the employee,

(b) accommodation suited to the employee's status in a hospital provided that the authorised doctor certifies in writing that it is necessary that the patient should be treated at a hospital, and

(c) any expenses involved in travelling either by the patient or the authorised doctor rendered necessary for the treatment, provided that they are so certified by the said doctor.

(5) (1) If the authorised doctor is of opinion that owing to the absence or inadequacy of facilities or to the severity of the illness an employee should be treated at his residence, he shall be entitled to be so treated.

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1. The directions are modelled largely on the Central Services (Medical Attendance Rules 1944).

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(2) In such a case an employee who prefers to be treated by a medical practitioner other than the authorised doctor may be so treated, and in such an event he shall be entitled to receive towards the cost of such treatment incurred by him a sum equivalent to the cost of such treatment as he would have been entitled, free of charge, to receive under these provisions, if he had not been treated at his residence, or equivalent to the actual cost incurred, whichever is less.

(3) Claims for sums stated to be due under clause (2) shall be accompanied by—

(*a*) by a certificate in writing by the authorised doctor, stating :

(*i*) his reasons for the opinion referred to in clause (1);

(*ii*) the cost of similar treatment referred to in clause (2); and

(*b*) by a certificate in writing by the medical practitioner referred to in clause (2) stating the actual cost of his treatment.

310. We give the following directions in respect of the banks in class B :—

Our directions in respect of the banks in class A shall apply, subject to the proviso that in the case of no employee shall the total expenses on account of medical attendance and treatment payable by a bank exceed the following limits in a calendar year :—

Basic pay	Class of Areas		
	I	II	III
	Rs.	Rs.	Rs.
Not exceeding Rs. 75 a month	15	12	10
Exceeding Rs. 75 but not exceeding Rs. 150 a month	25	20	15
Exceeding Rs. 150 but not exceeding Rs. 250 a month	35	30	25
Exceeding Rs. 250 a month	50	40	35

311. We give the following directions in respect of the banks in class C :

Our directions in respect of the banks in class A shall apply, subject to the proviso that in the case of no employee shall the total expenses on account of medical attendance and treatment payable by a bank exceed the following limits in a calendar year :—

Basic pay	Class of Areas		
	I	II	III
	Rs.	Rs.	Rs.
Not exceeding Rs. 50 a month	10	9	8
Exceeding Rs. 50 but not exceeding Rs. 100 a month	15	12	10
Exceeding Rs. 100 but not exceeding Rs. 200 a month	20	18	16
Exceeding Rs. 200 a month	30	25	20

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CHAPTER XXIV

Recruitment, Conditions of Service, etc.

SECTION I

Recruitment

312. In this Chapter we propose to deal with the following matters: method of recruitment, terms and conditions of service and procedure for termination of employment or for taking other disciplinary action (item 17 of Schedule II), subsistence allowance during periods of suspension (item 22):

313. *Method of recruitment.*—There need not be any fixed method of recruitment for temporary employees and apprentices, although it would be best to have lists of candidates, not only for the appointment of probationers and permanent employees but also for temporary appointments. Persons who have worked in temporary appointments would be able to demonstrate their fitness for permanent appointments. We recommend that banks should keep registers of candidates in which their names, ages, qualifications, previous experience and addresses would be entered, also any special merit or special recommendation by any person; that this register should be revised annually and kept up-to-date; that when a candidate has worked temporarily, the management's opinion as to how he has worked should be noted; that the names of employees who have had to be retrenched should also be entered in this register; that when a vacancy has to be filled up (1) retrenched employees, provided that there are no adverse remarks sufficient to disqualify them and, next after them, (2) candidates who have worked temporarily and have won approval should first be considered for appointment. In banks of the A and B classes, at least for appointments in offices and branches in areas of classes I and II, we think that a candidate for a clerical post should have passed the matriculation or school leaving certificate examination or an examination of similar standard. It is also desirable, at least when a number of appointments are to be made at about the same time, that vacancies, the necessary qualifications and the pay scales, etc., proposed to be applied should be advertised in newspapers or that notices about such vacancies, etc., should be put up on the bank's notice boards for at least a week before the selection is made. We would also stress the extreme desirability of avoiding any impression that any favouritism or act of nepotism is at the bottom of any appointment.

314. We direct that in the case of all permanent vacancies an appointment shall be made only after the candidate has produced a satisfactory medical certificate and that such appointment, in the first instance, shall be on probation for a period of six months, at the end of which, if the employee's work be approved he shall be confirmed; and that if it be desired, in exceptional circumstances, that the employee's work should be watched for a further period, such period shall not exceed three months, at the end of which the employee should be either confirmed or discharged from service. We further direct that on a candidate's appointment as a temporary employee, a probationer or a permanent employee he shall be given a written order by the bank specifying the kind of appointment and the pay and allowances to which he would be entitled, and that such a written order shall be given on the appointment also of part-time employees.

315. With regard to godown keepers, we understand that many of them are kept on a temporary basis, some throughout their service, although they are often admitted to the benefits usually enjoyed by the permanent staff. The Central Pay Commission, in paragraph 130 of their Report, noticed that in some departments public servants remained temporary for all their life-time and that in some dapartments there had persisted the pernicious practice of discharging a whole mass of employees on the 31st March and re-employing them on the 1st April every year; and they remarked, "It is high time that this state of things is remedied". With regard to godown keepers, Mr. Justice Bind Basni Prasad, Chairman of these Banks Concialiation Board in the United Provinces, recommended that if any godown keeper had put in a total service of at least two years he should be made permanent, this recommendation being made on a suggestion of the banks themselves, which appeared before him. In the industrial dispute between the Central Bank of India, Limited, and its employees in its Calcutta branches, also such a demand was made before the learned Adjudicator Mr. S. K. Sen and the bank accepted the demand and a direction to that effect was made. We direct that in cases in which an employee has remained on a temporary basis for more than two years he shall be deemed to have become permanent, unless the post to which he is appointed is of a temporary nature. We direct that all posts of a temporary nature shall be declared to be such once in each year by the management, a list of them being published on the bank's notice boards.

316. For recruitment to the clerical staff members of the subordinate staff who are sufficiently literate and intelligent ought not to be neglected, even though they may not have passed the matriculation or a similar examination. We think that in the lists of candidates maintained by the banks the names of such members of the subordinate staff as are considered eligible should be entered and that candidates from this class should be considered next after retrenched employees, if any, and persons, if any, who have worked temporarily.

SECTION II

Conditions of Service

317. *Conditions of service.*—These should include provisions regarding leave, hours of work, overtime, medical aid, transfers, travelling allowance and promotions, but as these are specific items (Nos. 12, 13, 14, 25, 26 and 31) in Schedule II such matters will not be dealt with here. The expression "conditions of service" has a wide significance, but we propose to examine only the following matters which may be said to be involved in the said expression: classification of employees; search; temporary stoppage of the bank: effect of confirmation or permanent employment; the age for retirement; the maintenance of service books; redress of grievances; and service certificate.

Classification of employees.—We direct that employees shall be classified as:—

(*a*) permanent employees;
(*b*) probationers;
(*c*) temporary employees; and
(*d*) part-time employees;

these expressions having the following meanings :—

(*a*) "permanent employee" means an employee who has been appointed as such by the bank,

(*b*) "probationer" means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service.

(*c*) "temporary employee" means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature.

(*d*) "part-time employee" means an employee who does not or is not required to work for the full period for which an employee is ordinarily required to work and who is paid on the basis that he is or may be engaged in doing work elsewhere.

Search.—We direct that an officer appointed for the purpose by the manager shall have the power to search or cause to be searched any employee when the latter leaves the premises of a bank, provided that the person of a female employee shall not be searched by or in the presence of a male, and that every search shall be conducted in the presence of not less than two persons.

Temporary stoppage of Bank.—We give the following directions :—

(1) In the event of a fire, catastrophe, an epidemic, civil commotion or other cause beyond the control of the bank, it may at any time, without notice or compensation in lieu of notice, close down, as the event may require, the bank or any branch, department or part thereof for a reasonable period.

(2) An employee affected by a stoppage under clause (1) above shall be deemed to be on privilege leave to the extent such leave is admissible; and for the balance of the period, except where his services are dispensed with, he shall be deemed to be on leave without pay.

Effect of confirmation or permanent appointment

We direct that on confirmation or permanent appointment an employee shall be entitled to all the privileges enjoyed by, and shall be subject to all the liabilities cast upon, the other permanent members of the staff and that he should further be entitled to have the period of his probation added to the years of his permanent service for the purpose of the grant to him of any gratuity or pension.

Age for retirement.—The Central Pay Commission were inclined to agree with the opinions expressed before them against the wastage of man-power resulting from too early retirement from service of persons still capable of good work. They doubted if in respect of Indians serving in this country it was necessary to maintain the superannuation age at 55 years, the existing limit in the majority of the higher Government services, and they recommended that the age for compulsory retirement should uniformly be 58 years for all services, with an option to Government to retire an employee on grounds of loss of efficiency at 55 years. Though the Central Government have not been able to give effect to the Commission's recommendation, we think that

it is essentially sound; we, accordingly, direct the adoption of the following rule by the banks concerned; after an employee has attained the age of 55 years he may be required by his employer by notice, if his efficiency be found to be impaired, to retire after the lapse of two calendar months from the date of the notice; subject to this rule and also to any rule under an existing Pension Fund no employee shall be compelled to retire before he has attained the age of 58 years. An employee, however, shall be entitled to resign his appointment at any earlier age by giving three months' notice to his employer and on such resignation having become effective he shall be entitled to the benefits as to provident fund, gratuity and pension as provided by the existing rules.

Maintenance of Service Books.—We think that in the case of every employee except one who is engaged on a part-time basis, whether he is a temporary employee, a probationer or a permanent employee, a service book should be maintained, containing at least the following particulars: name, date of birth, identification marks, entry into service as a temporary employee or probationer, confirmation or permanent appointment, pay on such occasions, promotion, pay on promotion, disciplinary action, if any, taken, any remarks about his efficiency or character made by his superiors, resignation or retirement, leave taken or absence from duty, officiating or acting appointments and deputation, if any, with dates wherever possible. We direct accordingly.

Redress of grievances.—(1) Any employee desirous of the redress of a grievance relating to unfair treatment or wrongful exaction on the part of the bank or a superior shall either himself, or through a lawyer or representative of a registered union, submit a complaint to the manager or any officer appointed by the manager in this behalf.

(2) The manager or such officer shall, as soon as possible, investigate the complaint at such times and places as he may fix. The employee concerned and his lawyer or the representative of the union shall have the right to be present at such investigation. A copy of the order finally made shall be supplied to him if he asks for one:

Provided that complaints relating to assault or abuse by any person holding a supervisory position or refusal of any application for urgent leave shall be enquired into immediately by the manager or by such officer as he may appoint in this behalf.

Service certificate.—Every employee who leaves service or retires or is dismissed or discharged shall without avoidable delay be given a service certificate.

SECTION III

Procedure for termination of employment and disciplinary action

318. We propose to deal under the subject of "termination of employment" with (1) discharge unconnected with any disciplinary action or punishment, (2) discharge in cases in which (a) the evidence is insufficient to justify disciplinary action or (b) though such evidence may exist it is not considered necessary or expedient to take such action and (3) retrenchment in the interests of the bank. Under the subject of disciplinary action we propose to deal with (1) dismissal, (2) suspension, (3) warning or censure, (4) fine, (5) the making of adverse remarks, and (6) the stoppage of an increment.

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319. We take the subject of disciplinary action first. It is an elementary principle of natural justice that a person against whom such action is proposed or likely to be taken should, in the first instance, be informed of the particulars of the charge against him, that he should have a proper opportunity to give his explanation as to such particulars, and that the final order that may be passed should be made after due consideration of all the relevant facts and circumstances. With this object in view we give the following directions:

(1) By the expression "offence" shall be meant any offence for which an employee is liable to conviction and sentence under any provision of law.

(2) When in the opinion of the management an employee has committed an offence, unless he be otherwise prosecuted, the bank shall take steps to prosecute him or get him prosecuted; and in such a case he may also be suspended. If he be convicted he may be dismissed with effect from the date of his conviction or be given any lesser form of punishment as mentioned in clause (5) below, provided that if an employee be convicted of a petty offence involving no moral turpitude, *e.g.*, under the municipal road traffic rules (such as riding a cycle without a light at night) and sentenced only to a fine, he shall not be dismissed but he may be dealt with as if he had been guilty of "minor misconduct" as defined and provided for below. If he be acquitted, it shall be open to the management only to proceed against him under the provisions set out below relating to discharges. If he be acquitted, he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full pay and allowances *minus* such subsistence allowance as he has drawn and to all other privileges for the period of suspension; provided that if he be acquitted by being given the benefit of doubt he may be paid such portion of such pay and allowance as the management may deem proper, and the period of his absence shall not be treated as a period spent on duty unless the management so direct. If he prefers an appeal or revision application against his conviction and is acquitted, in case he had already been dealt with as above, and he applies to the management for reconsideration of his case, the management shall review his case and may either reinstate him or proceed against him under the provisions set out below relating to discharge, and the provisions set out above as to pay, allowances and the period of suspension will apply, the period up to date for which full pay and allowances have not been drawn being treated as one of suspension.

(3) If after steps have been taken to prosecute an employee, or to get him prosecuted, for an offence he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of "gross misconduct" or of "minor misconduct" [in the circumstances stated in clause (2)] as defined below; provided that if the authority which was to start prosecution proceedings refuses to do so or comes to the conclusion that there is no case for prosecution it shall be open to the management only to proceed against the employee under the provisions set out below relating to discharge, but he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full wages and allowances and to

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all other privileges for such period. If within the pendency of the proceedings thus instituted he is put on trial such proceedings shall be stayed pending the completion of the trial, after which the provisions mentioned in clause (2) above shall apply.

(4) By the expression "gross misconduct" shall be meant any of the following acts and omissions on the part of an employee:

(*a*) engaging in any trade or business outside the scope of his duties except with the permission of the bank;

(*b*) unauthorised disclosure of information regarding the affairs of the bank or any of its customers or any other person connected with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank;

(*c*) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank;

(*d*) wilful damage or attempt to cause damage to the property of the bank or any of its customers;

(*e*) wilful insubordination or disobedience of any lawful order of the management or of a superior;

(*f*) habitual doing of any act which amounts to "minor misconduct" as defined below, "habitual" meaning a course of action taken or persisted in notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him;

(*g*) wilful slowing down in performance of work;

(*h*) gambling or betting on the premises of the bank;

(*i*) speculation in stocks, shares, securities or any commodity, whether on his account or that of any other persons;

(*j*) doing any act prejudicial to the interests of the bank, or gross negligence or negligence involving or likely to involve the bank in serious loss;

(*k*) giving or taking a bribe or illegal gratification from a customer or an employee of the bank;

(*l*) abetment or instigation of any of the acts or omissions above-mentioned;

Provided that all the items mentioned above shall be deemed to be subject to the right of an employee to take part in legitimate trade union activities.

(5) An employee found guilty of gross misconduct may:

(*a*) be dismissed without notice, or

(*b*) be warned or censured, or have an adverse remark entered against him, or

(*c*) be fined, or

(*d*) have his increment stopped, or

(*e*) have his misconduct condoned and be merely discharged.

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(6) By the expression "minor misconduct" shall be meant any of the following acts and omissions on the part of an employee:

(*a*) absence without leave or overstaying sanctioned leave without sufficient grounds;

(*b*) unpunctual or irregular attendance;

(*c*) neglect of work; negligence in performing duties;

(d) breach of any rule of business of the bank or instruction for the running of any department;

(*e*) committing nuisance on the premises of the bank;

(*f*) entering or leaving the premises of the bank except by an entrance provided for the purpose;

(*g*) attempt to collect or collecting monies within the premises of the bank without the previous permission of the management or except as allowed by any rule or law for the time being in force;

(*h*) holding or attempting to hold or attending any meeting on the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;

(*i*) canvassing for union membership or collection of union dues or subscriptions within the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;

(*j*) failing to show proper consideration, courtesy or attention towards officers, customers or other employees of the bank; unseemly or unsatisfactory behaviour while on duty;

(*k*) marked disregard of ordinary requirements of decency and cleanliness in person or dress;

(*l*) incurring debts to an extent considered by the management as excessive.

(7) An employee found guilty of minor misconduct may:

(*a*) be warned or censured, or

(*b*) have an adverse remark entered against him; or

(*c*) have his increment stopped for a period not longer than six months.

(8) In all cases in which action under paragraph (3), (5), or (7) may be taken, the proceedings held shall be entered in a book kept specially for the purpose, in which the date or dates on which the proceedings are held, the name of the employee proceeded against, the charge or charges, the evidence on which they are based, the explanation and the evidence, if any, tendered by the said employee, the finding or findings with the grounds on which they are based and the order passed, shall be recorded with sufficient fulness, as clearly as possible; and such record of the proceedings shall be signed by the officer who holds them.

(9) When it is decided to take any disciplinary action against an employee such decision shall be communicated to him within three days thereof.

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(10) The procedure in such cases shall be as follows :

(*a*) An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge-sheet clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time being given to him to enable him to prepare and give his explanation as also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witnesses and produce other evidence in his defence. He shall also be permitted to be defended by a representative of a registered union of bank employees, or with the bank's permission, by a lawyer,

(*b*) pending such inquiry he may be suspended, but if on the conclusion of the enquiry it is decided to take no action against him he shall be deemed to have been on duty and shall be entitled to the full wages and allowances and to all other privileges for the period of suspension ; and if some punishment other than dismissal is inflicted the whole or a part of the period of suspension, may, at the discretion of the management, be treated as on duty with the right to a corresponding portion of the wages, allowances, etc.

(*c*) In awarding punishment by way of disciplinary action the authority concerned shall take into account the gravity of the misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances that may exist. Where sufficiently extenuating circumstances exist the misconduct may be condoned and in case such misconduct is of the " gross " type he may be merely discharged, with or without notice or on payment of a month's pay and allowances, in lieu of notice. Such discharge may also be given where the evidence is found to be insufficient to sustain the charge but where the bank does not, for some reason or other, think it expedient to retain the employee in question any longer in service. , Discharge in such cases shall not be deemed to amount to disciplinary action.

320. Where the directions given above conflict with the procedure or rules in force in any bank regarding disciplinary action they shall prevail over the latter. There may, in such procedure or rules, exist certain provisions outside the scope of the directions given by us above enabling the bank to dismiss, warn, censure, fine an employee or have his increment stopped or have an adverse remark entered against him. In all such cases also we think that the provisions set out in clauses (8) and (9) should apply, and we direct accordingly.

321. It also seems to us necessary that a bank should decide which officer shall be empowered to take disciplinary action in the case of each office or establishment and that it should also make provision for appeals against orders passed in disciplinary matters to an officer or a body not lower in status than the manager, who shall if the employee concerned so desires in a case of dismissal hear him or his representative before disposing of the appeal. We direct accordingly and further direct that the names of the officers or the body who are empowered to pass the original orders or hear the appeal shall from time to time be published on the bank's notice boards, that an appeal shall be disposed of as early as

possible, and that the period within which an appeal can be preferred shall be forty-five days from the date on which the original order has been communicated in writing to the employee concerned.

SECTION IV

Termination of Employment

322. We now proceed to the subject of termination of employment. We give the following directions:

(1) In cases not involving disciplinary action (*i.e.*, in cases in which the employee in question has not *prima facie* been concerned in the commission of an offence or in any act or omission falling within the scope of gross misconduct or minor misconduct as defined above[1]), and subject to clause (7) below, the employment of a permanent employee may be terminated by three months' notice or on payment of three months' pay and allowances in lieu of notice, and the employment of a probationer may be terminated by 45 days' notice or on payment of 45 days' pay and allowance in lieu of notice.

(2) The reasons for the termination of service under clause (1) shall be recorded in writing and shall be communicated to him, if he so desires at the time of discharge unless such communication, in the opinion of the management, is likely directly or indirectly to lay any person open to civil or criminal proceedings at the instance of the employee.

(3) A permanent employee desirous of leaving the service of the bank shall give one month's notice in writing to the manager. A probationer desirous of leaving service shall give 14 days' notice in writing to the manager. A permanent employee or a probationer shall, when he leaves service, be given an order of relief signed by the manager.

(4) If any permanent employee leaves the service of the bank without giving notice, he shall be liable to pay the bank one month's pay and allowances. A probationer, if he leaves service without giving notice, shall be liable for 14 days' pay and allowances.

(5) The services of any employee other than a permanent employee or probationer may be terminated, and he may leave service, after a week's notice. If such an employee leaves service without giving such notice he shall be liable for a week's pay (including all allowances).

(6) An order relating to discharge or termination of service shall be in writing and shall be signed by the manager. A copy of such order shall be supplied to the employee concerned.

(7) In cases of contemplated closing down or of retrenchment of more than five employees, the following procedure shall be observed:

(*a*) two months' notice of such proposed action shall be given individually to all the employees concerned, with a statement of the reasons for such proposed action;

(*b*) the manager or an officer duly empowered in this behalf shall within the period of such notice, hear any representation from the employees concerned or any registered union of bank employees;

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1. For the principle underlying this specification see the case of *Gauri Ambu and others* v. *Phoenix Mills, Limited, Bombay*, 1949 I.C.R. (Bom.), p. 1.

(c) after the hearing of such representation and the receipt of a report in the matter, if necessary, by the management, if it be decided to give effect to the contemplated closing down or retrenchment in the original or an amended form, the service of each employee concerned may be terminated by giving three months' notice or payment of three months' pay and allowances in lieu of notice.

SECTION V

Notices, Subsistence Allowance during Suspension

323. We think it necessary to lay down the following directions regarding notices, orders, etc. Notices which are required to be given shall be served individually on the employees affected and their acknowledgments taken, and shall also be exhibited on the notice-boards of the bank at the offices or establishments concerned. Such notices as are so exhibited shall be in English and also in the principal language of the district or locality in which each such office or establishment is situated. Any notice, order, charge-sheet, communication or intimation which is meant for an individual employee shall be in a language understood by the employee concerned. In the case of an absent employee notice shall be sent to him by registered post, with acknowledgment due.

324. There now remains the subject of subsistence allowance during the periods of suspension. We do not think it right, as is the case in some banks, that an employee under suspension should be wholly deprived of his pay and allowances. We direct that an employee shall be entitled, during the period of his suspension, to a subsistence allowance at such rates as the suspending authority may direct, but not less than one-third of the pay and allowances which he would, but for the suspension, have drawn.

325. The directions given in this Chapter should be deemed to be given not only with reference to items 17 and 22 but also with reference to item 36 (relating to Standing Orders regulating the conditions of service of bank employees) in Schedule II. The said directions should be understood to be subject to the provisions of any law for the time being in force; for instance, if there be an industrial dispute regarding a matter which in the opinion of the management calls for disciplinary action and the dispute has been referred to conciliation or to a Tribunal, the provisions of section 33 of the Industrial Disputes Act, 1947, will apply.

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CHAPTER XXV

TRANSFER, TRAVELLING ALLOWANCE, ETC.

SECTION I

TRANSFERS

326. In this Chapter we shall deal with the following matters:

(1) Policy regarding transfer of employees,

and

(2) Travelling allowance and joining time on transfer.

(Items 25 and 26 in Schedule II).

327. *Policy regarding Transfer.*—The main demands on this subject are as under:

(1) no employee should be transferred without his consent;

(2) no employee should be transferred outside the State in which he has been serving;

(3) if an employee is transferred to another station the bank should provide him there with suitable accommodation;

(4) members of the subordinate establishment should not be transferred;

(5) members of the executive committee and other officers of a union should not be transferred, except with their consent;

(6) if a transfer against the wishes of an employee cannot be avoided it should be made within the same State or regional or linguistic area;

(7) the system of transferring employees, simply because they happen to be relatives of other employees which exists in certain banks, should be abolished.

328. We agree that so far as members of the subordinate establishment are concerned, they should not ordinarily be transferred except at their request or with their consent. That should be the ordinary rule, but there may be exceptional circumstances necessitating a transfer in the case of such employees. We direct that in a such case a written order shall be passed stating the reason for the transfer.

329. We do not think that in other cases a transfer should be made only on the prior consent of the employee concerned. Transfers are often necessitated by the exigencies of the administration for which the bank authorities are responsible and they must, therefore, be generally left to their discretion. Certain cases, however, have been brought to our notice of individual complaints showing or suggesting that transfers are sometimes made as disciplinary measures or as a means of harassing or weakening a trade union and its officials. Mr. J. N. Mehrotra, General Secretary of the U. P. Bank Employees' Union, has stated before us that he has been transferred to 36 places within a period of ten months and that 11 secretaries belonging to his union have within a short period been transferred from Kanpur where the Union's headquarters are situated. These statements have not been controverted. We express our strong disapproval of

such measures. In order that such transfers may be avoided as far as possible we give the following directions :

(1) all registered bank employees' unions, from time to time, shall furnish the banks to which any of their office-bearers belong with the names of such office-bearers,

(2) where the transfer of any of them is contemplated, at least five clear working days' notice should be put up on the notice boards of the bank of such contemplated action,

(3) any representations, written or oral, made by the union shall be considered by the bank,

(4) if any order of transfer is ultimately made, a record shall be made by the bank of such representations and the bank's reasons for regarding them as inadequate, and

(5) the decision shall be communicated to the union as well as to the employee concerned.

330. We further direct that as far as possible a transfer outside the State in which an employee has been serving, or outside the area in which the language of the said State is spoken, as well as frequent transfers of the same employee (say, more than once a year) against his wishes, shall be avoided. We regard the demand to be provided with housing accommodation at the place of transfer as unreasonable, specially in these days of shortage of such accommodation, and we think that with regard to the employment of more than one relation in the same establishment the matter had best be left to the good sense and discretion of the bank authorities.

SECTION II

Travelling Allowance

331. *Travelling Allowance.*—The demands on this subject that have been made are generally that the travelling allowance on transfers and other occasions when journeys have to be performed should be on the Government scale or the more generous scale in force in the Reserve Bank of India, that there should besides be a "Special transfer allowance", that there should also be a diem or daily allowance for the days occupied by such journeys and that the cost of an employee's and his family's proceeding to his home or elsewhere during leave and their return to the place of duty should be paid by his employer.

332. A number of banks, specially the big banks, have laid down rules regarding travelling allowances and we consider it unnecessary to frame a complete set of rules on the subject. We, however, wish to give a few directions free from elaborate details and direct that the existing rules on the subject, wherever they are less liberal than our directions, shall be brought into conformity with them within two months of the publication of this award. We prescribe the following rules :

(*A*) *General.*—(1) Members of the staff who do not belong to the subordinate establishment shall be paid railway or steamer fares at rates not less than second class fares and members of the subordinate establishment shall be paid such fares at third class rates. When a steamer company has two rates of fare, one inclusive and the other exclusive of diet, the expression "fares" shall mean those without diet ; and where the members of an employee's family are allowed

travelling allowances they shall be at the rates to which the employee is entitled, subject to the rules as to half fares for children.

(2) The following maximum units shall be regarded as constituting the family of an employee, including himself, taking a child for which a half fare has to be paid as half a unit and counting a widowed mother or an unmarried sister wholly dependent on the employee as members of his family where he, his wife and children, if any, do not come up to the said maximum. If an employee has more than one wife, only one wife shall be treated as included in his family.

Class of banks.	Employees who are not members of the subordinate staff.		Members of the subordinate staff.	
	Married.	Unmarried.	Married.	Unmarried.
Class A	5	3	4	2
Class B	4	2	3	2
Class C	4	2	3	2

(3) If an employee or any member of his family travels by a class inferior to the class allowed, he shall be entitled to claim travelling allowance only at the rate actually paid.

(4) All claims for travelling allowance shall be supported by a certificate, signed by the employee concerned, to the effect that the amount actually paid by him for the journey was not less than the amount claimed (excluding the extra $\frac{1}{4}$ or $\frac{1}{2}$ fare claimable by himself).

(5) A claim in respect of a journey shall ordinarily be for the cheapest route and when any other route is taken the reason for taking it shall be given; and a claim in respect of a journey in which the cheapest route has not been taken may be allowed by the sanctioning authority on such reason being found satisfactory.

(*B*) *Journeys on Transfer.*—On a transfer to a place where the employee concerned is expected to stay for a period exceeding forty-five days, an employee shall be entitled to the following, provided that in a case in which a transfer has been sought by the employee and been granted accordingly he shall not be entitled to claim any allowances unless the sanctioning authority, in its discretion, grants them to such extent as it may deem proper:

(1) $1\frac{1}{2}$ fares for himself and one fare for each of the other members of his family, the latter being entitled to join him at the place to which he is transferred at any time within the six months immediately following his journey;

(2) in the case of an employee not belonging to the subordinate establishment, an additional third class fare for a servant if one actually accompanies him or accompanies a member of his family within the period allowed for such member;

(3) the cost of transporting personal effects up to the following maxima (in Bengal maunds), up to one-half of which may be transported by a passenger train, the allowance in respect of the balance being at the rate of transport by a goods train.

Class of banks.	Employees who are not members of the subordinate staff.		Members of the subordinate staff.	
	Married.	Unmarried.	Married.	Unmarried.
Class A	20	15	5	4
Class B	16	12	4	3
Class C	10	6	3	2

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(4) any other expenditure unavoidably incurred (*e.g.*, in respect of tonga and cooly hire or of a journey by means of a conveyance other than train or steamer), established to the satisfaction of the sanctioning authority and subject to any rules made by the bank in this behalf.

(*C*) *Other Journeys.*—(1) If any other journey has to be undertaken by an employee in the interests of his bank, he shall be entitled to 1¼ fares, provided that in the case of one who is not a member of the subordinate establishment, if he has to stay away from his station for a period exceeding thirty days he shall also be entitled to a single third class fare for one servant taken with him.

(2) In case an employee is recalled from leave before the expiry of his leave, he shall be entitled to 1¼ fares for himself and one fare each for such members of his family as may have gone from his station with him when he left it on leave, or joined him later, from the place where he receives the order of recall to such station, along with such costs of transportation of his effects, etc., as the sanctioning authority may deem reasonable. In case he is transferred to another station during leave and required to join there before the expiry of his leave, he shall, in addition, be entitled to draw allowance as if he were transferred from his last station, provided that the total allowances claimed (excluding the extra ¼ or ½ fare claimable for himself) shall not exceed the total expenses actually incurred.

333. We do not think that any employee should be entitled to any daily allowance for the days occupied by a journey or to any special transfer allowance. There has also been a demand for a travelling allowance for proceeding on and returning from leave in respect of every employee and his family. Such an allowance is granted by several commercial firms, and the need for such an allowance was brought to the notice of the Central Pay Commission. "All grades of officers," they said (paragraph 93 of their report), "including the highest paid services, have complained that they are often unable to avail themselves of the facility of taking annual leave on account of the fact that the cost of travelling is so heavy that availing of the leave would not be worthwhile except once in two or three years"; and they recommended the grant to civil employees other than those in the Railway Department (who enjoy special concession in this regard) of concessions similar to the Privilege Ticket Order (P.T.O.) obtaining in that Department, but limited to one set of P.T.Os. for a return journey per year for an officer and the members of his family. We do not, however, think that this demand by the employees can be allowed, particularly as we have directed that as far as possible an employee shall not be transferred out of the State in which he is serving. We recommend, however, the adoption of a rule by at least the bigger banks, under which facilities of the kind suggested by the Central Pay Commission, even if somewhat restricted (*e.g.* payment of half the expenses in question, or once in two years), may be available to at least such of their employees, as have their homes at a considerable distance from the place where they have to serve their employers.

SECTION III

Joining Time.

334. *Joining Time.*—We give the following directions:

(1) An employee shall be entitled to joining time when he has to join a new post to which he is appointed while on duty in his old post or when he is on leave during which he is required to join a new post; provided that no joining

time shall be admissible when the change of appointment does not involve an actual change in the situation of his office, and that joining time of not more than one day (which may be a holiday or Sunday) shall be admissible when the new appointment involves a change in the situation of his office but not a new station.

(2) The joining time in cases of transfer from one station to another shall be calculated on the following scale :

(*a*) five days (exclusive only of a Sunday) for preparation, *plus*

(*b*) one day for each of the distances prescribed below, or fraction thereof, travelled (or which might be travelled) by the different modes of locomotion (excluding travel by an aeroplane) shown below :—

By railway	250 miles.	
By ocean steamer	200 miles.	or any longer time actually occupied in the journey.
By river steamer	80 miles.	
By motor car or bus	80 miles.	
By horsedrawn conveyance	60 miles.	
In any other way	15 miles.	

(3) Joining time shall count as time spent on duty.

(4) An employee in respect of the joining time shall be entitled to the pay and allowances which he would have drawn if he had not been transferred, or the pay and allowances which he will draw on taking charge of his new post, whichever are less.

SECTION IV.

Special cases of Transfer.

335. We shall now consider a peculiar class of cases, namely, where an employee is transferred from a certain area to another area involving a lower scales of pay and allowances. An employee serving in the city of Bombay, for instance, may be transferred to an area of class II or class III and the question that arises is whether it would be right to deprive him suddenly of an appreciable portion of his emoluments when the transfer is necessitated merely in the interests of the bank. We think that in such cases it would be proper to give the employee some time to adjust his affairs to the altered situation. With this object we give the following directions :

Where an employee is transferred from an area of class I to one of class II or III or from an area of class II to one of class III,

(1) if the transfer be made at his own request his pay and allowances, etc., will be regulated by the scale of pay, etc., applying to the area to which he is transferred ;

(2) if the transfer be not made at his request he shall be entitled to add, as personal pay, to the pay applicable to him in the new area—

(*a*) for the first 45 days at the new station, the difference between the pay he was drawing before the transfer and the pay applicable in the new area, and

(*b*) for the next 45 days, one-half of such difference.

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CHAPTER XXVI

PROMOTIONS

SECTION I

PROMOTIONS

336. In this Chapter we propose to deal with "rules regarding promotions" and "waiving of age restrictions for promotion to supervisory grades." (Items 31 and 24 in Schedule II).

337. *Promotions.*—Under this head the following is a list of the main demands made:

(1) posts like those of jamadars, havaldars, messengers, etc., should be filled up by promoting members of the subordinate establishment;

(2) members of the subordinate establishment should be eligible for posts in the clerical establishment; they should be promoted to such posts if they pass the matriculation examination;

(3) all vacancies in the officers' grades and supervisory grades, or a large percentage of them, should be filled by promotion from the clerical staff;

(4) for making promotions seniority should be given the highest consideration, after which merit or efficiency and educational qualifications should be preferred to other considerations;

(5) before vacancies in the higher grades are filled the unions should be consulted;

(6) vacancies which may be filled by promotion should be duly notified, applications invited and candidates selected by holding impartial examinations;

(7) the system of having "trainees" adopted by the Central Bank of India, Limited, for recruitment to higher posts, being against the interests of the existing employees, should be abolished;

(8) sometimes a clerk is promoted to an "officer's" post, but with less pay and allowances than he drew before; before such promotion is made his consent should be obtained;

(9) sometimes an officer is appointed with less pay than those serving under him; such appointments should not be made, as they are resented by those working under such officers and are subversive of discipline and good administration;

(10) rules should be made so as to prevent or minimise favouritism in the making of promotions and filling of vacancies.

The banks are generally opposed to any directions being given as to these matters and contend that they should be left to their discretion.

338. As to demand (1) we direct that in filling such a post the management should first see whether any member of the existing staff is suitable and appoint an outsider only when none of them deserve to be promoted to the post in question. As to demand (2), a similar demand was dealt with in a Bombay award (Premier Construction Company, Limited, and others *v.*

their workmen)[1] in this way: "The question of minimum qualification required for appointment to the clerical post would naturally arise in such cases and although there is nothing wrong in principle in promoting a suitable lower grade staff employee to the clerical grade, the matter cannot be the subject of any hard and fast rule and it must be left ultimately to the Management with the recommendation that members of the lower grade staff should be considered for appointment to clerical grade provided they answer the qualifications and are otherwise suitable and have the necessary merits for such appointment." Similar observations are to be found in the Divatia award (Paragraph 48). With respect we agree with these observations and direct accordingly. Demand (3) is opposed by the banks on two grounds: (*a*) that posts in the grades above the clerical fall outside the scope of the Tribunal's jurisdiction and (*b*) that in general the eligibility of suitable members of the clerical staff is as a matter of fact considered in filling vacancies in the higher posts, but selection in such cases must be left entirely to the judgment and discretion of the management who are responsible for the proper and efficient administration of the bank's affairs. The first ground is sought to be supported by the following observations of Divatia J. in the Bombay Banks Award (Paragraph 48): "The demand that the officers' and higher posts should be filled in by promotion from among the senior clerks cannot be granted because this Court has no power to make any award about the selection of men to the officers' and higher posts as the dispute is confined to clerks and low paid employees." In respect of a similar demand about vacancies in the "higher and/or covenanted grades" in a dispute between the Imperial Chemical Industries (India), Limited (Dyes Department) and its employees in Bombay[2] the same learned Adjudicator contented himself with a recommendation that the claims of the existing employees should not be overlooked when appointments to such grades are to be made.

339. It seems to us, however, that the members of the clerical staff having a very real interest in the methods of filling the posts in the grades next above their own, such methods can be said to be "connected with the employment" and "the conditions of labour" of themselves and of others eligible for such post within the scope of the definition of "industrial dispute" in the Industrial Disputes Act, and that the employees having thus raised a valid industrial dispute on the subject-matter of their demand, this question falls within the scope of our jurisdiction. On a demand for promotions "from clerical and cash department grade to staff assistant and other higher grade vacancies", Mr. B. B. Singh in his award decided that such promotions "should be allowed on the basis of merit-*cum*-selection but not to the exclusion of outsiders," no question as to jurisdiction on this question having been apparently raised before him or before the Banks Conciliation Board appointed by the U.P. Government after the publication of the said award, Mr. R. Gupta also dealt with the question of "Promotion to Staff Assistants' grade and other higher posts as and when vacancies occur" without (so far as his award shows) any such question having been raised before him. Similar remarks apply to Mr. S. K. Sen's award on the dispute between the Central Bank of India, Limited, and its employees in West Bengal outside Calcutta. Similar demands have been dealt with in awards relating to other industrial concerns, *e.g.*, those relating to the Engineering Industry in West Bengal and the Premier Construction Company, Limited, and others at Bombay. As to

1. 1949 I.C.R. (Bom.), p. 703 at p. 783.
2. *Bombay Government Gazette*, Extraordinary, November 19, 1947, page 4375A.

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the second objection urged by the banks the fact that the Central Pay Commission thought it necessary to enter into elaborate discussion on the subject at pages 63 to 67 of their Report, clearly shows that the matter is not free from difficulty and has to be regulated according to certain principles and that real grievances may arise if it be left entirely to the unfettered discretion of the employer. It may not be possible for us, in a matter of this kind, to give clear-cut directions and all that is possible may be merely to enunciate principles for which precise and objective tests or standards may be lacking.

340. We may at once say that we are not in favour of filling vacancies in the higher grades exclusively by promotion or even of reserving a specified percentage of such posts for promotion. At the back of the employees' claim is the feeling that some of them are competent enough to do the work assigned to the higher grades and that such opportunities to rise to those grades as they deserve are often withheld from them. On this point the Central Pay Commission's recommendation is that "the claims of competent men already in the service should be recognised and satisfied to the fullest extent possible. If such men are promoted to responsible posts fairly early in their career, they will bring all the benefits of practical experience without the disadvantages entailed by a prolonged course of routine work." We would emphasize the words in the above passage "to the fullest extent possible." If such promotions are made whenever possible they would not only serve as inducement to the members of the clerical staff to put forth the best endeavour of which they are capable but they would also demonstrate, in a manner not otherwise possible, the desire of the management to recognise merit wherever it exists and would thus go a long way to improve the relations between the workmen and the management by relieving the workmen's minds of suspicions regarding the management, at least to a very desirable extent. We, therefore, give the direction that whenever a post falls vacant to which are attached emoluments higher than those attainable under the ordinary pay scale and allowances applicable to the clerical staff the management shall first consider whether it can be filled by promotion from such staff. We further direct that in such cases the following procedure recommended by the Central Pay Commission shall apply: "Even when direct recruitment to a particular post is decided on, deserving men already in service should be enabled to compete for such recruitment, by a reasonable relaxation of the rule relating to age limit and other restrictive conditions." For the purpose of such relaxation we direct that wherever such restrictions and limitations exist or are complained against the banks concerned shall examine them and relax them to the extent possible within a period of six months from the date of the publication of our award.

341. Demand (4) raises the familiar controversy between seniority and merit. On this subject the following observations of the Central Pay Commission are relevant:

"The purpose of promotion is not merely to give the public servant more pay, but also to give him a more responsible position and more extensive authority. The question must, therefore, be judged both from the public interest and from the interest of the individual concerned. The principle of seniority assumes that all members of a particular grade are equally fit for promotion. Such an assumption may not do much harm in the lower grades of the service; but it cannot be generally accepted when dealing with promotions in or to the top grades. The principle of seniority has, no doubt, the advantage that its operation is very nearly automatic and it avoids the need for making invidious distinctions between one person and another and the embarrass-

ment of placing a young officer over the head of an older one. For many situations, especially those in respect of which long familiarity with office work is itself adequate training, the rule of seniority may be generally followed. But, even in this category of posts, occasional instances of exceptional promotions of deserving persons would be an inducement of greater endeavour, provided of course that care is taken to guard against all suspicion of nepotism. In the higher grades of the service, considerations of fitness must have precedence over the claim of seniority. The task of selection may not always be easy or agreeable and the possibility of mistake, unfairness or injustice cannot be wholly excluded, but the situation has to be faced."[3]

We agree with these observations and hold that the demand is not based on sound principle. In cases of promotions to the higher grades and to other important posts involving responsibility considerations of merit and fitness should have precedence over the claim of seniority, seniority being a principal criterion in other cases of promotion.

342. Demand (5) is that before vacancies in the higher grades are filled the union should be consulted. We have already provided that in some cases a vacancy will have to be notified. On such occasions the unions concerned will have an opportunity to make their recommendations; and we have no doubt that such recommendation will be duly considered. Beyond this we see no need for making any further provision on this subject. As to demand (6), we do not think it necessary to direct that vacancies which may be filled by promotion shall be notified or applications therefor invited. As to the holding of examinations, a bank should be free to use this method of recruitment or promotion if it thinks that it would serve a useful purpose, but we are not inclined to give a general direction on this question. The Central Pay Commission held as unpracticable the suggestions that selection for purposes of promotion should be made (*a*) by an independent outside agency, or (*b*) in collaboration with the representatives of the Services or union concerned; and we wish with respect to associate ourselves with that opinion as well as with the following observations of the Commission:

> "An employee's fitness, capacity and attention to duty are largely questions of discretion and judgment to be determined by his superior officers. An outside agency can scarcely be as competent in the determination of merit as the officers under whose observation employees have been doing their work. In large Departments the head cannot be expected to acquaint himself at first hand with the work of each of his subordinates. In such circumstances, he must act in consultation with departmental officers who themselves have personal knowledge of those working in the department."[4]

343. As to demand (7) regarding the system prevailing in the Central Bank of India, Limited, of having "trainees", we cannot direct that it should be abolished; in all probability it is proving useful. The system will now have to be worked in the light of our observations and directions; we would merely add a recommendation that the management should consider the advisability of training promising members of the clerical staff along with the regular "trainees."

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3. Page 64.
4. Page 65.

344. Demand (8) appears to us to be reasonable and we direct its acceptance. As to demand (9) it may not perhaps be always possible to avoid the grievance underlying it; but on the whole the principle on which it is based is sound and we recommend that it should be given effect to whenever possible. As to demand (10), it is not, in our opinion, possible to frame useful rules for the prevention of favouritism, but we wish to draw the attention of the bank authorities to our observations on the subject under "Method of recruitment." We would remind them that it is necessary, in the interests of the banks, to avoid not only nepotism and arbitrariness in making appointments and promotions but also all suspicion thereof.

SECTION II

Age Restrictions

345. In this section we shall consider the question of the waiving of age restrictions for promotion to supervisory grades (item 24 in Schedule II).

346. That the subject is not important is apparent from the fact that several of the unions have made no reference to it in their demands; those who have expressed themselves against there being any age restrictions have urged that the considerations that should weigh with the management are merit and experience, apart from seniority. It was alleged that in the Imperial Bank of India promotion to supervisory grades was not given after an employee had attained the age of 35 years, but this was denied by Sir Jamshedji Kanga on behalf of the bank, Mr. Beynon on behalf of the Chartered Bank of India, Australia and China admitted that there was such a rule in the said bank but said that it was not always strictly adhered to. In the written statement filed by the Imperial Bank of India we find it stated that "in deserving cases the employee's age is not an absolute bar to promotion"; this statement suggests that after attaining a certain age, an employee is not ordinarily considered eligible for such promotion, an exception being made in deserving cases.

347. We do not think that it is necessary for us to say anything on the subject before us more than what we have said in general as to promotions. There may be an advantage in the case of some of the higher posts in excluding elderly men: the Central Pay Commission, for instance, have said after referring to the claims of competent men already in service, "If such men are promoted to responsible posts *fairly early in their career*, they will bring all the benefits of practical experience," etc. The guiding principles in this matter must be the same as are to be found in Section I of this Chapter.

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CHAPTER XXVII

Taxes and Fines

SECTION I

Income and Professional Taxes

348. In this Chapter we shall deal with the following questions :

(1) Whether income and professional taxes payable by employees should be paid on their behalf by banks, and

(2) Utilization of proceeds from fines.

(Items 20 and 21 in Schedule II)

349. On the first question, nearly all the unions have demanded that the said taxes should be wholly paid by the banks. The United Commercial Bank Employees' Association, Calcutta, has suggested such payment in cases of employees whose salary does not exceed Rs. 500 per month. It is said that at present income-tax is being paid on behalf of their employees by the National Bank of India, Limited, and by the Hongkong and Shanghai Banking Corporation in its Calcutta branch and that the Chartered Bank of India, Australia and China paid the income-tax on its employees' salaries up to 1941. It is also said that the Imperial Bank of India pays the income-tax payable by its higher officers in its London office and it appears that the Bank of Baroda contributes a portion of the income-tax payable by its employees. The argument in favour of the income-tax being paid by the banks is based on the practice of the banks to give dividends free of income-tax to its shareholders and of certain banks to pay all taxes leviable under the Income-tax Act on the emoluments drawn by their high officers. As to other taxes, it has been stated that in the Punjab Professional taxes are imposed by the district boards and that there are such taxes also in certain notified areas.

350. The claim on the part of the employees was resisted by all the banks. The opposition to the demand is, in our opinion, justified. It is noteworthy that no general demand of this sort was ever put forward till now by any of the employees in the disputes which have formed the subject matter of decisions by various Tribunals in different parts of the country. Further, it stands to reason that persons who earn income above a certain minimum must contribute their own quota to the resources of the State ; and it is to be remembered that taxes paid by employees have entered into the calculations of Shri Subramanian on which the pay scales, etc., laid down by us have been based. As a matter of fact, the minimum exempt from income-tax has been raised this year to Rs. 3,600 and this means that only those whose income exceeds Rs. 300 per mensem would have to pay income-tax. Their number in the clerical grade will be comparatively small.

351. As regards professional taxes, in the places where they are imposed all persons carrying on any of the taxed professions within the limits of the municipality or other local body concerned have to pay them in return for which certain amenities are provided by such bodies ; and there seems to be no good reason why bank employees should seek to escape such burdens as

a special case. The argument that in several banks the higher paid officers get their salaries free of income-tax or that other taxes payable by them are paid by the bank, can be met by the argument that such cases are generally governed by the specific contracts of employment and that it would be more legitimate to demand the abolition of the privileges enjoyed by such officers rather than to demand their extension.

352. We, however, regard the practice on the part of some banks of paying the income-tax and other taxes on the emoluments of highly paid officers and not paying them in the case of the other employees as a serious anomaly, and in our opinion the sooner such anomaly is ended the better. As to future contracts in respect of such officers we direct that they shall contain no clause throwing the liability for the payment of such taxes on the banks. We think that we have jurisdiction to give such direction as it affects a matter which has a most vital connexion with the question of workmen's opinion of the adequacy of their own earnings in the light of a bank's capacity to pay and which thus is intimately connected with the problem of the maintenance of industrial peace.*

353. As regards the banks which are now paying income-tax or professional taxes on behalf of all their workmen, there being no anomaly in the practice, we do not wish to interfere with it; but in the cases in which such taxes are being paid on behalf of only some of the workmen liable to pay them we direct that the anomaly shall be rectified with the least possible delay.

SECTION II

Proceeds from Fines

354. As regards the question of the utilization of the proceeds from fines, most of the unions have expressed themselves against the imposition of such fines, one or two having contended that such imposition is beyond the power of the banks. Some of them have demanded that the proceeds from fines should be utilized for social amenities for the employees' benefit and one union has suggested their use for their "moral uplift". The banks have said that their power of inflicting punishment in suitable cases by way of fines should not be interfered with. We have made provision for the imposition of fines in certain cases of disciplinary action. Cases of imposition of fines, however, appear to be few and infrequent, there being no demands on this question by the Imperial Bank of India Staff Association owing apparently to the paucity of such cases and the total amount of fines realised by this Bank of Baroda during the years 1945 to 1949 having been only 52-8-0. Following the provisions in sub-section (8) of section 8 of the Payment of Wages Act, 1936, we direct that all fines realised shall be applied to purposes beneficial to the persons employed in the bank or the establishment concerned.

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* Subject to the minute of the dissent by Mr. Chandrasekhara Aiyar: (See Chapter X).

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CHAPTER XXVIII

Compensation to Refugee Ex-employees, etc.

SECTION I

Compensation to Refugee Ex-employees

355. In this Chapter we propose to deal with the following matters:

(1) Whether cash compensation is payable to employees of branches situated in Pakistan who have had to come away to India and have not been employed in the branches in India.

(2) Should bank pensioners be entitled to accept employment after retirement with or without the permission of the banks from which they draw their pensions?

(3) Right to existing terms of service where they are more liberal than those of the award of this Tribunal.

(4) In what manner and to what extent do the decisions of the Tribunal require modification in the case of employees of banks under liquidation or moratorium?

(Items 27, 28, 30 and 38 in Schedule II).

356. On the subject of compensation to refugee employees who are still unemployed, the demands made may be summarised as under:

(1) their full pay and allowances for the whole period of enforced unemployment should be paid and every attempt should be made to absorb them into service; when they are so absorbed they should not suffer from any break in service;

(2) they should be paid two years' salary or wages, with all allowances;

(3) they should be paid one year's salary or wages, subject to a minimum of Rs. 500;

(4) they should be paid at double the gratuity rates;

(5) the amounts at their credit in the provident fund including the bank's contributions, as well as any security amounts furnished by them, with interest, should be paid to them, with no deduction;

(6) compensation for any injuries sustained in the course of their leaving Pakistan should be paid; where an employee has died in the attempt to leave Pakistan suitable compensation should be paid to his heirs.

357. The banks say that they have done their best to help such refugee employees by giving them posts in India, monetary relief, advances, etc., that some of them are not traceable, but that some have of necessity had to be discharged, there being no means of absorbing them into service or the employees concerned being unable or unwilling to go to places where vacancies existed. The Bharat Bank, the Bengal Central Bank, the Punjab National Bank, the Central Bank of India, Allahabad Bank and the Imperial Bank of India are the banks that are primarily concerned with this question. They have resisted the demand for cash compensation equivalent to as much as two years'

pay and allowances. Of course it goes without saying that if they were entitled to any provident fund or gratuity or to other benefits on the dates they had to come away from the branches in Pakistan, they should get them without question. We direct that in all such cases the full amount of the bank's contributions to the provident fund shall be paid by the bank, as well as any security amounts which an employee might have deposited with the bank, with interest at 4 per cent per annum, within three months from the date of the publication of this award. In the case of such employees as have died while leaving, or as the result of any injury received while leaving Pakistan, we direct that their heirs, executors or assigns shall be paid one month's pay for each year of service, subject to a minimum of 6 months and maximum of 15 months, within three months from the date of the publication of this award. In the case of those who have had to remain unemployed, not of their own volition but by force of circumstances, it appears to us fair and equitable that they should be given some compensation for the hardships and privations they had to suffer for no fault of their own. We think that the payment of six months' pay and allowances to every such employee would meet the ends of justice and serve to alleviate suffering, at least to some extent. We accordingly, direct as follows: In the case of such employees, excepting those whose services have been dispensed with for misconduct, they shall be paid, within three months from the date of the publication of this award cash compensation equivalent to six months' pay and allowances, calculated from the date on which they had to leave Pakistan. We further direct that in case such persons or their heirs, etc., have received any gratuity under the existing rules or provisions the amount of the said gratuity shall be deducted from the amount they would be entitled to under the above direction, and that if the amount of the said gratuity be greater than what we have directed to be paid, such gratuity, and not the amount due under such direction, shall be paid within the period mentioned above.

358. Before parting from this issue, we must advert to a special point with reference to the Imperial Bank of India sought to be made by Mr. Jyoti Ghosh. He stated that when certain employees in the branches of the said bank in Pakistan wanted to be transferred to India the bank refused to consider their request, and he urged, therefore that the said bank should be made to pay full compensation at a reasonable rate for the entire period of their enforced absence from duty in case they had to leave Pakistan. The bank's reply is that what such employees wanted would have resulted in the wholesale closure of many of its branches in Pakistan and would have created a surplus staff a large part of which could not have been employed elsewhere. We are unable to hold that any distinction between the Imperial Bank of India and any other bank, in the matter of treatment of their employees, is possible or necessary; and all employees who were forced to leave Pakistan owing to conditions prevailing in that country should, therefore, be dealt with in accordance with the directions given above.

SECTION II

Permission for Pensioners before Re-employment

359. The second question to be considered in this Chapter arises out of the insistence by such banks as have pension schemes on pensioned employees taking their previous permission for accepting employment elsewhere. The

reason given by the banks for such a rule is that they should not engage themselves in a competing institution as it might lead to divulgence of confidential matters. This appears to us to be a needless apprehension. The employees with whom we are concerned are not generally in charge of top secrets of the bank; they largely do work more or less of a routine nature. Persons in active service in a bank having equal knowledge of the affairs of the bank are no doubt generally deterred from disclosing it outside by the fear of disciplinary action. But employees who retire earlier than the full period which would qualify them for pension and retired employees in banks which have no pension scheme are even now under no obligation to seek permission for re-employment; they go away getting their gratuity, provident fund, etc., and are free to seek engagement in other banks or institutions. Nor is such permission necessary in the case of an employee who is dismissed. In our opinion the imposition of a condition that pensioners alone should obtain permission before seeking engagement elsewhere is unnecessary and is likely to result in hardship. We direct, accordingly, that where such restrictions now exist they shall be cancelled or abolished.

SECTION III

Effect on Existing Terms of Service

360. We shall now deal with the question as to the right to existing terms of service where they are more liberal than those of the awards of this Tribunal. A provision as to such a right is often inserted in awards and it corresponds to some extent to provisions like the following in some of the local Shops and Establishment Acts: "Nothing in this Act shall affect any right or privilege to which any employee of any shop or commercial establishment may be entitled on the date on which this Act begins to apply to such employee under any other law for the time being in force, or under any award, agreement, contract, custom or usage which may be in force on that date if such right or privilege is not conferred upon him by this Act". (Section 5 of the U. P. Shops and Commercial Establishment Act). After the publication of Mr. B. B. Singh's award the Government of the United Provinces issued an order wherein it was stated, "The scales of pay prescribed by the adjudicator under issue No. 2 of the Award being the minimum permissible, if any employee has been in receipt of a higher salary or a salary in a better grade (*i.e.*, with a higher starting point, a higher rate of increment or a higher maximum) and/or allowances prior to the enforcement of the said award, then he shall continue to draw the higher salary or get the benefit of the better grade and of the allowance or allowances aforesaid." The Chairman of the U. P. Banks Concilation Board, in his Report said, "While dealing with the scale of salaries he (Mr. B. B. Singh) made it clear in para 15 of his award that what he was prescribing was the minimum. On a perusal of his report as a whole, I am of opinion that he intended that what he was prescribed under various issues were all minimum. He was appointed to give relief to the employees and it is difficult to believe that he intended to prescribe any term of employment for them which was less favourable than what was in force prior to the commencement of his Award. It follows from this that if in any bank an employee covered by his Award, as herein clarified, was in the receipt of higher pay or allowances than that prescribed by Shri B. B. Singh, he would continue to receive at his option the higher pay or allowances whether he was permanent or temporary. But I want to make it clear that the principles mentioned above are applicable only to an individual term of

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employment taken as a whole and it is not open to an employee to split it up and accept one part of it which is advantageous to him and reject that which is disadvantageous." In the Bombay award Mr. Justice Divatia provided that "all existing rights, privileges, advantages, amenities and/or such other conditions of service that are already being enjoyed by employees or group of employees as are not covered or varied by this award shall remain uneffected by this award".

361. In an award on a dispute between the United Motors (India) Limited, Bombay and their workmen one of the demands was: "Nothing contained in these demands should adversely affect or take away from a workman or groups of workmen any privileges, advantages or amenities already vested in or enjoyed by such workman or groups of workmen". The Chairman of this Tribunal who adjudicated the said dispute observed: "The language used here is somewhat vague and can hardly be said to embody any concrete demand. No direction, therefore, on this part of the demand seems necessary. But it is hoped that the Company will give effect to this award in the sipirit sought to be expressed in this paragraph [1]". On a similar demand made in a dispute between Roneo Limited, Bombay and their workmen, Mr. D. G. Kamerkar remarked: "As I have observed in other awards, such a general demand is vague in its implications and cannot be adjudicated upon unless concrete instances of predjudice are brought to the Tribunal's notice. No award can therefore be made in respect of such a demand, either way [2]".

362. The subject is not free from vagueness or difficulty. It is certainly not the intention of this award to cut down any of the existing rights and privileges of the employees. No demand for the reduction or curtailment of the existing benefits enjoyed by them is before us. But the matter cannot be disposed of in this simple fashion. For instance, in fixing the scales of pay several elements have been taken into account such as house rent, children's education, medical aid and attendance, and we have given special directions regarding the expenses that may be incurred on account of an employees' illness. If a bank has been paying a special allowance on account of any of these items, an employee will not be entitled to claim its retention except to the extent, if any, specifically provided in this award. But there may be allowances of a somewhat unusual kind in particular places, for instance, a special medical allowance for malarial places or a "scarcity allowance" for places where acute scarcity prevails. Certain banks have contended that such allowances are being given *ex gratia*, that they are of a temporary nature and that they should be allowed to be withdrawn when necessary. The Bank of Baroda has pointed out that the hours of work prescribed for its staff are less than those demanded and contended that it should be free to increase such hours to such number as may be laid down in our award. This contention has appeared to us to be sound and we have made a specific provision to this effect. But there may be matters on which our award is silent. Ordinarily if such matters relate to amenities or benefits which can be regarded as having ripened into rights, and if our award has not taken them into account even by necessary implication, such amenities and benefits should as a rule continue, and we direct accordingly. But there may be difficult cases. For instance, the Hongkong and Shanghai Banking Corporation have been making contributions to their employees' provident fund to the extent of 20% of their pay; and the Company have asked that they may be allowed to reduce the rate of their contribution if a large burden is found to be

1. 1949 I.C.R. (Bom.) 253, page 267.
2. 1949 I.C.R. (Bom.) 897, page 909.

placed upon them by our award. The Allahabad Bank, except in Uttar Pradesh, pays interest to its provident fund at the rate of 6 per cent, its contribution amounting to 6½% of an employee's pay; it has asked that if under our award the bank's contribution be increased it should have the option of reducing the rate of interest. The National City Bank of New York engages its employees at more liberal rates than other banks, pays dearness allowance at 50 per cent of an employee's pay (with a minimum of Rs. 50 per month) and contributes to the provident fund at the rate of 10 per cent, but it has made no provision for gratuity. It has asked that should it be required to make such a provision it should be left free to curtail some of the existing benefits enjoyed by its employees, within the limits of our award. This bank has sent us a memorandum suggesting a method of adjusting retirement benefits based on a form of union demand in the United States of America known as the "package" system[3]; we have not been able to accept the suggestion, but the question posed by the bank still demands an answer.

363. As regards monetary benefits enjoyed by the employees we feel that in no case and at no stage of an employee's career should his total emoluments be less than the totality of such benefits under the existing scheme, rules or awards (except awards as to interim relief), and that subject to this principle a bank may be allowed to adjust such benefits in the light of the requirements of our award. Provided that the benefits immediately enjoyed and not deferred (like the bank's contribution to the provident fund) are not reduced below the existing level. We direct accordingly. As to benefits like the provision of a canteen or a club-house which cannot be evaluated in precise monetary terms and which are not specifically referred to in our directions, the general direction that we have already given regarding matters on which our award is silent will apply. It is almost impossible, in the nature of things, to be more precise or explicit on this question. We conclude this discussion by expressing the hope that the banks will give effect to our award in the spirit underlying all just demands on this issue. We wish to make it clear that in applying the principles enunciated in the last paragraph nothing laid down in any of our awards relating to interim relief should be taken into consideration, for the operation of those awards is limited strictly to the period up to the date or dates on which this award will come into operation, and no part of such awards is intended to create of its own force any lasting right or term of service. There is another matter regarding which we may here make our position clear. In the statements of claims submitted by different unions and individuals there are a number of claims with which this award has not specifically dealt. In such cases it would, in our opinion, be proper to hold that such claims have not been adjudicated upon by this Tribunal in any manner.

SECTION IV

Banks under liquidation or moratorium

364. We next proceed to the question, in what manner and to what extent do the decisions of the Tribunal require modification in the case of employees of banks under liquidation or moratorium? (Item 38 in Schedule II).

365. The orders of the 13th June 1949 and the 28th September 1949 mention certain banks in liquidation, under moratorium or working under schemes of arrangement; certain other banks mentioned therein are stated to be defunct, to have closed their doors, to have applied for schemes of arrangement, to have

3. See Appendix VII.

petitions pending before the High Court for winding up or to be in a position described as "not known".

366. The question raised specifically for our consideration concerns banks in liquidation or under moratorium; but it may be necessary for us to consider the position of some of the other classes of banks mentioned above also. So far as banks in liquidation are concerned, we are doubtful whether we have any jurisdiction over them in view of section 171 of the Indian Companies Act, which provides:

> "When a winding up order has been made, or a provisional liquidator has been appointed, no suit or other legal proceedings shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose".

The expression "other legal proceedings" appears to be wide enough to embrace the proceedings of this Tribunal. No arguments have been addressed to us by or on behalf of any party to show that the provision of the said section is not relevant or does not apply. Under section 168 of the Indian Companies Act a winding up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding up; and it has not been suggested by any party that any of the cases of liquidation we are concerned with is one of voluntary liquidation. One of the advocates appearing on behalf of some of the unions undertook to apply for leave of the Courts concerned and inform us of the result; but he failed to give us any information on this point at any of the subsequent hearings. There is also the difficulty involved in the provision in section 172 of the Indian Companies Act that a winding up order operates as notice of discharge to the servants of the company, except when the business of the company is continued; and we have no information as to whether the business in the case of any of the banks concerned is being continued; even in such cases a notice of discharge may be given pursuant to the winding up order (*English Joint Stock Bank, ex parte Harding* [4].) and on this point also we have no information. We have, therefore, decided that our award should be deemed not to apply to such banks.

367. As regards the banks under moratorium, they are regulated by section 37 of the Banking Companies Act, which is based on section 277N of the Indian Companies Act. The Court may thereunder stay all actions and proceedings against the company for a maximum period of six months on such terms and conditions as it may think fit and proper, so that it either rehabilitates itself within such period or goes into the stage of winding up, voluntarily or compulsorily. Information as to what has happened to the banks described as under moratorium, after the period fixed therefor, is also lacking. We, therefore, direct that in case any of the banks described as under moratorium be working normally at the date when our award becomes operative our directions shall apply thereto and that it shall not apply to any such bank during the period of moratorium.

368. We may next consider the position of such banks as are under schemes of arrangement or regarding which it has been stated that applications for schemes of arrangement are pending. According to the schedules to the Government orders of reference there are 20 such banks. Five [5] out of these banks,

4. (1867) 3 Eq. 341.
5. The New Bank of India, Limited.
The Traders' Bank, Limited.
The Lakshmi Commercial Bank, Limited.
The First National Bank, Limited.
The Punjab and Kashmir Bank, Limited.

which are working under schemes of arrangements, are members of the Displaced Banks Association which has urged that their members should be exempted from the provisions of our award. Such schemes are sanctioned by the Court under section 153 of the Indian Companies Act, and such a scheme generally operates to discharge the company and its contributories from liability other than that imposed by it. It has been held that "arrangement" is a word of wide import and is not limited to something in the nature of a compromise. It has been stated on behalf of the banks which are working under schemes of arrangement that such schemes were generally necessitated by the loss of large assets in Pakistan and the liabilities not having decreased in like proportion. We have looked into the schemes supplied to us and shall take one of them as typical, namely, the scheme sanctioned in respect of the Lakshmi Commercial Bank, Limited, Delhi, by the High Court of the East Punjab on the 19th March, 1948, and give its important features. They are as follows:

369. Deposits as on 26-9-1947 are not to carry interest; they are to be reduced by 25 per cent, 50 per cent of the balance of 75 per cent being payable within two months of the scheme being sanctioned and 50 per cent within three years of the date of such sanction; the amount made available by the reduction of deposits are to be taken to a special Reserve Fund for bad and doubtful debts, etc., the assets and liabilities of the bank as on 31-12-1952 are to be evaluated and any surplus in such Reserve Fund to be distributed amongst the depositors; from the date of the sanction the bank is to be entitled to carry on its normal banking business; on the date of the sanction a sum of Rs 5,00,000 is to be transferred out of the bank's assets to a separate Reserve Fund, the balance of the Assets being treated as a Closed Fund as a security for the discharge of the liabilities of the bank to its old depositors; all the assets of the bank coming into existence after the date of the sanction along with the separate Reserve Fund are to be security for the bank's liabilities in respect of business transacted after the date of the sanction; and all expenses incurred by the bank are after the sanction to be apportioned between the Closed Fund and the assets and the separate Reserve Fund described above in proportion to their total average working capitals.

370. These provisions show that the effect of such schemes of arrangement is to keep alive the banks concerned in an attenuated form and that the Closed Fund created as a security for the discharge of the bank's liabilities to its old depositors and the special Reserve Fund created for bad and doubtful debts, etc., are kept separate from such funds and assets as are utilised for the banking business which the bank is permitted to carry on. It will, further, be seen that under the scheme, all the expenses incurred by such a bank are to be apportioned between the Closed Fund and the assets and the separate Reserve Fund in proportion to their average working capitals. This means that if the expenses of one of the funds, *e.g.*, the Closed Fund, are heavy in proportion to those of the other fund, a part of the former's expenses will have to be borne by the latter. It has been said that the banks have now been compelled to carry on such business with "a skeleton staffs" and that time should be allowed before these institutions should be treated as normally working banking companies. The balance sheets of the five banks working under schemes have been furnished to us. Though they are not all for the latest year they show that these banks are finding great difficulty in carrying on normal banking operations. However, it is not easy for us to differentiate between them and other banks, specially many of the non-scheduled banks, which may also be working under difficulties which may not have come to our notice. It is, however, to be noted that the Government of

India have felt the need, from time to time, of giving the twelve banks[6] which are members of the Displaced Banks Association special exemption from certain provisions of the Banking Companies Act[7] the period of such exemption being generally three years. The notifications indicate that Government are of opinion that such banks deserve to be given favoured treatment for such period. The following is a quotation from a report[8] of a speech made by the Finance Minister: "Earlier in the debate one member had drawn his attention to the case of the displaced banks from the Punjab and he had been asked what the Government would do in regard to them. The hardships to which these banks were put were obvious. It was a case in which these banks, uprooted from their homes, were placed in a position where it would be extremely difficult for them to conform to the provisions of the Bill. Yet it was his duty as Finance Minister to afford them protection in view of difficulties in which they were placed for reasons entirely beyond their control". In view of these considerations it seems to us that it would not be right for us to fix for the banks which are under such schemes of arrangement anything but the lowest rates (for each class of areas) in the scales laid down for class C banks. We direct, therefore, that so far as the banking business carried on by such banks is concerned, those of their employees who are engaged for the purpose of such business shall be entitled to the benefit of only the scales laid down for class C banks in respect of new entrants for the period for which the special exemptions given by Government apply, and that thereafter our award shall apply to such banks in full.

371. There remain five other classes of banks not appearing to be working normally and described thus in the orders of reference; "latest position not known" "reported to be defunct", "prohibited from accepting fresh deposits", "defunct though its affairs are not wound up formally", "stated to have closed its doors from 15th September 1948". Our award will apply to such of those banks as are still transacting the business of banking.

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6. (1) The New Bank of India, Limited.
(2) The Traders' Bank, Limited.
(3) The Lakshmi Commercial Bank, Limited.
(4) The Punjab and Kashmir Bank, Limited.
(5) The Prabhat Bank, Limited.
(6) The Chawla Bank, Limited.
(7) The Punjab Commerce Bank, Limited.
(8) The Frontier Bank, Limited.
(9) The First National Bank, Limited.
(10) The Commercial Bank of India, Limited.
(11) The National Bank of Sialkot, Limited.
(12) The Colony Bank, Limited.

7. Government of India, Ministry of Finance, Notification Nos.:
(1) F.4(46)-F.1/49, dated New Delhi, the 13th March 1949.
(2) F.4(46)-F.1/49, dated New Delhi, the 3rd August 1949.
(3) F.4(46)-F.1/49, dated New Delhi, the 5th September 1949.

8. *The Hindustan Times* of the 17th February 1949.

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CHAPTER XXIX

Works Committees; Standing Orders

372. In this Chapter we shall deal with the following matters: "Works Committees—should they be established or not?" and "Standing Orders regulating the conditions of service of bank employees and the procedure in making amendments to them" (item 32 and 36 in Schedule II).

373. As to Works Committees, we believe that Works Committees such as are referred to in section 3 of the Industrial Disputes Act, 1947 are meant; they are to be constituted in the manner prescribed in Part V of the Industrial Disputes (Central) Rules, 1947. Under sub-section (2) of section 3 of the Act "it shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters." The Federation of Bank Employees, Bombay, have made no demand regarding Works Committees and the Imperial Bank of India Staff Federation have dropped their demands on this item. Mr. Mehrota for the U.P. Bank Employees' Union has asked for Works Committees of a kind different from such as may be constituted under the Act; all other employees' representatives and advocates also, except Mr. Dudhia, who has appeared on behalf of three unions at Ahmedabad, Surat and Baroda, have expressed themselves against Works Committees. The banks, too, in general, have opposed the establishment of such Committees. Sir Jamshedji Kanga on behalf of the Imperial Bank of India has pointed out that under section 3 of the Act it would be for the appropriate Government to require the employers to constitute Works Committees in the prescribed manner. That is no doubt true; but the Tribunal has been asked, it would seem, to express its opinion whether Works Committees should be established or not. In view of the almost universal opposition we do not think that any works committee such as may be constituted under the Act should be constituted or established. The unions appear to have felt that their freedom of action and decision may be hampered by such committees being established and the banks may have felt that they would be difficult to work and would interfere with the spheres of their responsibility and discretion in an undesirable manner.

374. As to Standing Orders, we have already dealt with the following matters:—

(1) Leave rules (Chapter XXI),

(2) Hours of work and overtime (Chapter XXII),

(3) Method of recruitment, terms and conditions of service and procedure for termination of employment or for taking other disciplinary action (Chapter XXIV),

(4) Subsistence allowance during period of suspension (Chapter XXIV),

(5) Transfer of employees, travelling allowance and joining time on transfer (Chapter XXV),

(6) Promotions (Chapter XXVI).

375. Our directions in these matters as well as some other directions made by us cover the main part of the ground usually covered by such standing orders as are referred to in item 36 of Schedule II. We do not think that it is necessary to lay down any more directions of such nature, no party appearing before us having clearly expressed a desire for more. No party addressed to us any argument as to the latter part of item 36 : " the procedure in making amendments to them " (Standing Orders), and we refrain from giving any directions as to such procedure.

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CHAPTER XXX

Awards and Orders already made

376. There now remain some items in Schedule II which we have largely dealt with in certain awards already made by us and published in the official Gazette. Item 16 is about recognition of (*i*) The Punjab National Bank Employees' Union (East Punjab), (*ii*) The Bharat Bank Employees' Union, Delhi and (*iii*) The United Provinces Bank Employees' Union. This question, as regards the first two of those unions, as well as the question of recognition of another union, namely, the Allahabad Bank Employees' Union, have been dealt with in our award, dated the 22nd February 1950 and published in the *Gazette of India*, Extraordinary, dated the 23rd March, 1950. As to the United Provinces Bank Employees' Union, the said question has been dealt with in an award shortly to be submitted to the Government of India. Cases of retrenchment and victimization (item 18) and payment of workers reinstated in such cases (item 19) have been dealt with in the following awards and orders made by us:—

Award, dated the 4th November 1949 (Published in the *Gazette of India*, Extraordinary, dated the 9th December 1949).

Award, dated the 5th January 1950 (Published in the *Gazette of India*, Part I, Section I, dated the 28th January 1950).

Award, dated the 19th January 1950 (Published in the *Gazette of India*, Extraordinary, dated the 4th February 1950).

Award, dated the 23rd January 1950 (Published in the *Gazette of India*, Part I, Section I, dated the 18th February 1950).

Award, dated the 25th January 1950 (Published in the *Gazette of India*, Part I, Section I, dated the 18th February 1950).

Award, dated the 11th February 1950 (Published in the *Gazette of India*, Part I, Section I, dated the 4th March 1950).

Award, dated the 20th February 1950 (Published in the *Gazette of India*, Part I, Section I, dated the 18th March 1950).

Award, dated the 22nd February 1950 (Published in the *Gazette of India*, Extraordinary, dated the 23rd March 1950).

Award, dated the 24th March 1950 (Published in the *Gazette of India*, Part I, Section I, dated the 15th April 1950).

Award, dated the 30th March 1950 (Published in the *Gazette of India*, Part I, Section I, dated the 22nd April 1950).

Besides the above, five awards have been submitted to the Government of India but have not yet been published; and four awards are still to be submitted. Orders on four applications made by banks for retrenchment have been made by the Tribunal. Orders on eight more such applications still remain to be made.

377. Item 29 regarding return of quarters to peons, etc., of the Bharat Bank, Limited, Delhi, who were deprived of quarters after the strike in December 1948 was not pressed, there being no grievance at present relating to this matter.

CHAPTER XXXI

Banks to which Award is Applicable

378. This Tribunal has been constituted by the Ministry of Labour's Notification No. LR-2 (205), dated the 13th June 1949 "for the adjudication of industrial disputes in banking companies." The following definition of "banking company" was inserted in section 2 of the Industrial Disputes Act, 1947 by the Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949, now replaced by Act LIV of 1949):

> "'banking company' means a banking company as defined in section 5 of the Banking Companies Act, 1949 (X of 1949), having branches or other establishments in more than one Province, and includes the Imperial Bank of India":

379. The Ministry of Labour, by their two orders, dated the 13th June 1949 and the 28th September 1949, respectively, referred to this Tribunal the industrial dispute between 83 scheduled and 122 non-scheduled banking companies and their employees. By their letter No. LR-2 (212), dated the 13th October 1949 the Ministry informed the Tribunal that a large number of banks outside the scope of the Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (now replaced by Act LIV of 1949) had been erroneously included in the first reference and that it would be open to the Tribunal to exclude such banks from the operations of its award. Along with the said letter a list of scheduled and non-scheduled banking companies having branches in more than one State was furnished. On a reference to the Reserve Bank of India the said bank by its letter No. DBO 8276/57-49, dated the 28th November 1949 also supplied to this office separate lists of such scheduled and non-scheduled banks, the list of the latter having been compiled on the basis of the information available to it. Thereafter the Tribunal, by a circular, dated the 26th October 1949, asked all the banks concerned to intimate to it whether they had branches in more than one State and if so in how many States. A number of the banks did not reply to this inquiry in spite of reminders.

380. On a careful comparison of the information obtained from the sources mentioned above it appears that the following banks do not have branches in more than one State:—

Sl. No.	Name of the Bank	Remarks
1	2	3
	SCHEDULED.	
1.	American Express Co., Inc.	B
2.	The Bank of Rajasthan, Limited	GRB
3.	The Bharata Lakshmi Bank, Limited	GRB
4.	The Dinajpore Bank, Limited	GRB
5.	The Indo-Commercial Bank, Limited	GRB
6.	The Indo-Mercantile Bank, Limited	GRB
7.	The Mercantile Bank of Hyderabad, Limited	GRB
8.	The Nedungadi Bank, Limited	GRB
9.	The Southern Bank, Limited	RB
10.	The South India Bank, Limited	GRB
11.	The South Indian Bank, Limited	GRB
12.	The Travancore Forward Bank, Limited	GRB

Sl. No.	Name of the Bank	Remarks
1	2	3
13.	The Union Bank of India, Limited	GRB
14.	The Vysya Bank, Limited	GRB
	NON-SCHEDULED.	
15.	The All-India Bank, Limited, Calcutta	GRB
16.	The Ambat Bank, Limited, Cochin	GRB
17.	The B and A Bank, Limited, Calcutta	GRB
18.	The Bank of Indore, Limited, Indore	GRB
19.	The Benares State Bank, Limited, Benares State	GRB
20.	The Bharata Bank, Limited, Travancore	GRB
21.	The Catholic Syrian Bank, Limited, Cochin	GRB
22.	The Catholic Union Bank, Limited, Cochin	GRB
23.	The Chaldean Syrian Bank, Limited, Cochin	GRB
24.	The Cochin Commercial Bank, Limited, Cochin	GRB
25.	The Cochin Nayar Bank, Limited, Cochin	GRB
26.	The Cochin Union Bank, Limited, Cochin	GRB
27.	The Coconada Radhasoami Bank, Limited, Madras	RB
28.	The Dhanalakshmi Bank, Limited, Cochin	GRB
29.	The G. Raghunathmull Bank, Limited, Hyderabad	GRB
30.	The Hindu Bank Karur, Limited, Madras	GRB
31.	The Indian Insurance and Banking Corporation, Limited, Cochin	GRB
32.	The Indian Relief Bank, Limited, Madras	GRB
33.	The Jayalaxmi Bank, Limited, Madras	GRB
34.	The Josna Bank, Limited, Cochin	GRB
35.	The Karnataka Bank, Limited, Madras	GRB
36.	The Lord Krishna Bank, Limited, Cochin	GRB
37.	The Malabar Bank, Limited, Madras	GRB
38.	The Malarkode Bank, Limited, Palghat	GRB
39.	The Mannar Bank, Limited, Travancore	GRB
40.	The Punjab Central Bank, Limited, Delhi	GRB
41.	The Sterling Bank, Limited, Calcutta	RB
42.	The Suburban Bank, Limited, Trichur	GRB
43.	The Thomco Bank, Limited, Travancore	GRB
44.	The United Central Bank, Limited, Calcutta	GR

NOTE :

'G' in the remarks column means, in accordance with the information supplied by Government of India, Ministry of Labour, Letter No. LR-2(212), dated the 13th October 1949.

'R' means, in accordance with the information supplied by the Reserve Bank of India, in its letter No. DBO 8276/57-49, dated the 28th November 1949.

'B' means in accordance with the information supplied by the various banks in reply to the Tribunal's circular, dated the 26th October 1949.

381. The case of the American Express Co., Inc., which is not mentioned either by the Government of India nor by the Reserve Bank of India needs special consideration. That company has claimed that theirs is not a banking company which has branches in more than one State; it has contended that it has only two offices in India, at Bombay and Calcutta, and that since February 1948 the office at Calcutta has been doing only travel agency business, having ceased to do banking business.

382. This contention of the company is supported by the documents filed on its behalf. The company sent a circular notice on the 29th January 1948 to all their banking clients intimating that they would be discontinuing their banking activities in Calcutta and informing the constituents that all their accounts would be closed by the 28th of February 1948. A notification was inserted in the "Statesman" of the 11th February 1948 to the same effect, *viz.*, that the banking activities in the Calcutta office would cease as from the 28th February 1948. The company resigned its membership in the Calcutta Exchange Banks' Association with effect from the end of February. Then

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the Imperial Bank of India, with whom the company had dealings, was also notified of the cessation of the banking activities of the Calcutta branch. There is an affidavit from Mr. Ball, Manager in India of the American Express Co., affirming the truth of these facts.

383. As against this material, the documents relied on the side of the employees is a return made to the Reserve Bank by the company, in accordance with Form No. 9 of the Banking Companies Act, in which the Calcutta branch is also shown by the Company in addition to the Bombay branch. Mr. Blair, however, has pointed out that under Rule 13, they are bound to show all branches of the company, whether they are doing banking business or not and that it is on the basis of this idea that the Calcutta branch was included. The company did entertain a doubt whether the Calcutta branch should be shown and raised the question with the Reserve Bank of India in its letter, dated the 4th August 1949. The Reserve Bank wanted the return to include the figures relating to the Calcutta office also inasmuch as all the assets and liabilities of all the offices of the company have to be shown under section 42 (2) (*a*) of the Reserve Bank of India Act.

384. Mr. Phadke, appearing for the Federation of Bank Employees, Bombay, urged two points: firstly, that though the Calcutta branch might not do banking business as its main activity, it could still be regarded as a branch of the company doing such business as a subsidiary line; and secondly, that the definition of a 'banking company' in the Banking Companies Act, which is incorporated in the Industrial Disputes Act, was wide enough to cover the present case because it speaks also of "other establishments in more than one province."

385. Both the points are, in our opinion, unsubstantial. There is nothing to show that the company is doing any banking business in Calcutta after February 1948 apart from travel agency business; and it has to be conceded that a travel agency business as such, though it involves receipts of deposits and payments out of the constituents' money against those deposits as well as issue of travellers' cheques, is not banking business if we pay regard to the definition of 'banking' in section 5 sub-clause (*b*) of the Banking Companies Act and to the meaning ordinarily attached to it in common parlance. Section 6 of the Banking Companies Act speaks of a travel agency business as a business which may be carried on by a banking company *in addition* to its banking business.

386. The words "other establishments" can only connote, in the context, establishments that are concerned with the carrying on of a banking business. If a company does banking business in its Bombay branch and, say, a drapery business in Madras, would the case fall within our jurisdiction? We think not. The words "other establishments", in our opinion, mean establishments which may not be called branches but may be otherwise designated, *e.g.*, as sub-branches or pay offices. The *ejusdem generis* construction must apply.

387. For the reasons given above we have allowed the objection to our jurisdiction, so that this company must be held to be outside our jurisdiction.

388. The following banks have also claimed that they do not have branches in more than one State:

Scheduled:

Palli Bank, Limited, Daulatpur.

Non-scheduled : 619

1. Manindra Banking Corporation, Limited, Berhampur.
2. Northern Bank, Limited, Calcutta.
3. Sahukara Bank, Limited, Ludhiana.
4. Indian National Bank, Limited, Calcutta.

389. These banks have not cared to produce any evidence in support of their claim and we, therefore, find it difficult to come to a finding on such claim. Our awards will, of course, be binding only on such banking companies as had branches or other establishments in more than one province at the dates of the Government orders refered to above, *viz.*, the 13th June 1949 and the 28th September 1949.

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CHAPTER XXXII.

Definitions and Interpretations.

390. In this Chapter we propose to collect together, for the purpose of easy reference, certain expressions and the meanings or definitions we have given to them.

Allowances :

"Border allowance" is an allowance intended to compensate for the hardship incidental to service at a place near the borders of the country where residence involves certain risks. (Chapter XIV).

"Conveyance allowance" is an allowance intended to cover the expenses of journeys to and from the place of work, the clearing house, etc. (Chapter XIV).

"Education allowance" or "children's allowance" is an allowance payable in aid of the education of an employee's children. (Chapter XIV).

"Fuel allowance" is an allowance intended to cover the increased expenses on account of fuel involved in staying at a hill station. (Chapter XIV).

"Grain allowance" is an allowance intended to compensate for the increase in the cost of living on account of the high cost of food grains. (Chapter XIV).

"Halting allowance" is an allowance payable to an employee in addition to other emoluments for any day during which he is absent from headquarters on duty and intended to cover the ordinary daily expenses incurred by him in consequence of such absence (Chapter XIV).

"Hill allowance" is an allowance intended to cover the increased cost of living involved in staying at a hill station (Chapter XIV).

"House-rent allowance" is an allowance intended to cover partially the high rents obtaining in certain big towns and cities. (Chapter XIV).

"Local allowance," is an allowance said sometimes to be paid to an employee when he is sent out to serve in a place outside his own State. (Chapter XIV).

"Officiating allowance" is an allowance payable in respect of an employee's officiating in a higher post *i.e.*, *a* post carrying a higher salary than his own. (Chapter XIV).

"Poona Cantonment allowance" is an allowance which is being given to the employees of the Imperial Bank of India in its branches situated in the Cantonment at Poona. (Chapter XIV).

"Scarcity allowance" is an allowance intended to cover the increased cost of living at a place where scarcity conditions prevail. (Chapter XIV).

"Special allowance" means an allowance payable mainly on the grounds of special qualifications, skill or responsibility attaching to or required in a particular office or job, such as the allowances of which minimum scales have been laid down in Chapter XI of this award. It does not include any of the allowances dealt with in Chapter XIV.

Areas :

"Areas of class I" comprise the following: Calcutta (including, Behala, Alipore, Cossipore, Garden Reach, Baranagore, Tollygunge, the South Suburban

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Municipal Area and Dum Dum), Bombay including the area comprised in the expression Greater Bombay, Delhi, Ahmedabad, Howrah and Barrackpore. (Chapter III).

"Areas of class II" comprise all towns and cities, other than those included in areas of class I, shown in the Census report of 1941 as possessing populations of 50,000 or more in the Punjab and 1,00,000 or more elsewhere. (Chapter III).

"Areas of class III" comprise all places not included in areas of classes I and II.

Banks:

"Banks of class A" comprise the banks mentioned in Group A among the scheduled banks in the Central Government's order (Ministry of Labour) No. LR-2 (212), dated the 13th June 1949 and the 28th September 1949 and other banks, if any, mentioned therein the working funds of which amount to Rs. 25 crores and above.

"Banks of class B" comprise the banks mentioned in the said orders the working funds of which are below Rs. 25 crores and not below Rs. 7½ crores.

"Banks of class C" comprise the banks mentioned in the said orders the working funds of which are less than Rs. 7½ crores.

Cost of living index numbers:

"Cost of living index numbers or figures" are the figures published as such in the Indian Labour Gazette and (for Calcutta) in the Monthly Abstract of Statistics, both being publications of the Government of India. (Chapter IV).

Emoluments:

No amount which is contributed by a bank towards a provident fund, pension or guarantee fund or similar other fund for the benefit of the employees is to be deemed, for the purposes of this award, to be a part of an employee's emoluments. For the purposes of the directions given in Chapter VIII "emoluments" should be understood to be exclusive of hill, fuel, halting and washing allowances, if any.

Employees:

"Employees" means (for the purposes of this award) any person employed in a bank to do any work for hire or reward, except the following: a director, a manager, an agent, a superintendent, an accountant, a head cashier, a treasurer, a khazanchi and any officer drawing a basic salary of not less than Rs. 500 per month; provided that the expression shall apply to the categories of employees for whom special allowances have been provided in Chapter XI of this award. (Chapter X).

"Part-time employee" means an employee who does not or is not required to work for the full period for which an employee is ordinarily required to work and who is paid on the basis that he is or may be engaged in doing work elsewhere.

"Permanent employee" means an employee who has been appointed as such by the bank.

"Probationer" means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service.

"Temporary employee" means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature. (Chapter XXIV).

Leave:

"Commuted leave" means the leave found by converting the leave due on half pay to half its amount. (Section II, Chapter XXI).

"Earned leave" and "leave on half pay" means such leave as are indicated under those expressions in Section II, Chapter XXI of this award.

Medical aid and expenses:

"Attendance" and "treatment" mean such attendance and treatment as indicated under those expressions in Chapter XXIII of this award.

Misconduct:

"Gross misconduct" and "Minor misconduct" mean such types of misconduct as are indicated under those expressions in Section III, Chapter XXIV of this award.

"Offence" means any offence for which an employee is liable to conviction and sentence under any provision of law. (Chapter XXIV).

Overtime work:

"Overtime work" means such work as is in excess of the amount of work prescribed in this award. (Chapter XXII).

Pay:

"Basic pay" means pay as shown in the scales of pay laid down in Chapter IV and V of this award.

"Pay" means the aggregate of basic pay, special allowance (if any) (Chapter XI) and officiating allowance (if any) (Chapter XIV).

Working funds:

"Working funds" mean the aggregate of the paid-up capital, reserves and deposits. For the purposes of the classification of banks the average of the figures of those three items, as they stood on the 30th June and the 31st December of the year 1949, is to be taken as the working funds.

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CHAPTER XXXIII

Acknowledgments

391. Before we close our award, it is our pleasant duty to acknowledge the help we have received from numerous sources in the course of our work. It has been a pleasure to work with the members of the legal profession and the representatives of the banks and the employees who have appeared before us at the different places where we have had to work. In particular we are very grateful to the following authorities for providing us with accommodation for our sittings :

The Honourable the Chief Justice of India,
The Honourable the Chief Justice, High Court, Allahabad,
The Honourable the Chief Justice, High Court, Calcutta,
The Honourable the Chief Justice, High Court, Gauhati,
The Honourable the Chief Justice, High Court, Madras,
The Honourable the Chief Justice, High Court, Nagpur,
The Honourable the Chief Justice, High Court, Patna,
The Honourable the Speaker, Legislative Assembly, Bombay,
The Secretary, Legislative Assembly Department, Bombay,
The Honourable the Speaker, Legislative Assembly, Calcutta,
The Secretary, Legislative Assembly Department, Calcutta,
The Governor of the Reserve Bank of India, Bombay,
The Vice-Chancellor, University of Bombay, Bombay,
The Chief Secretary to the Government of Mysore,
The Chief Secretary to the Government of Travancore and Cochin,
The President, Indian Forest Research Institute, Dehra Dun,
The President, Benaras Municipality,
The President, Dehra Dun Municipality,
The Chairman, Central Industrial Tribunal, Calcutta,
The District Magistrate, Banaras,
The District Magistrate, Dehra Dun.

392. We also desire to express our grateful thanks to the following officers and institutions for the assistance they have given us by supplying the Tribunal with reference books and other documents or information in the course of our inquiry from time to time :

The British Information Service, Sir Pherozshah Mehta Road, Bombay, 1,
The Department of Economics and Statistics, Tata Industries, Ltd., Bombay House, Bombay, 1,
The Industrial Court, Bombay, 1,
The Labour Bureau, Ministry of Labour, Simla,
The Office of the Deputy Commissioner of Labour (Information), Secretariat, Bombay, 1,
Messrs. Craford Bayley and Co., Solicitors, Bombay, 1,
The Reserve Bank of India, Bombay.

393. Lastly, we wish to express our appreciation of the services rendered by our staff who had often to work under high pressure. We would particularly mention the help we have received from our Secretary Mr. V. S. Verde and our

Research Associate, Mr. J. A. Panakal for the many useful statements they have prepared for us from time to time on the basis of the available materials and for bringing important points to our notice. Our three Stenographers Messrs. N. K. Khare, K. P. R. Menon and P. V. Kale also deserve special mention. We also wish to record our appreciation of the work of our Court-clerk Mr. M. P. Barot in connexion with our proceedings held at different places. Mr. B. D. Upasani has rendered us extremely useful service in generally looking after the establishment, accounts, etc.

(Sd.) K. C. SEN,
Chairman.

(Sd.) J. N. MAJUMDAR,
Member.

(Sd.) N. CHANDRASEKHARA AIYAR,
*Member.**

BOMBAY:
Dated the 31st July, 1950.

Minute of Dissent by Mr. N. Chandrasekhara Aiyar as regards Chapter X of the Tribunal's Award.

One of the questions that has cropped up before us in the course of hearing is whether officers of the banks as distinguished from "workmen" are governed by these proceedings. The answer depends largely on the meaning to be given to the words "any person" in section 2 sub-section (*k*) of the Industrial Disputes Act. The clause runs in these terms:

> "Industrial dispute" means any dispute of difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

2. Relevant here is the definition of 'workman' in sub-section (*s*) of the same section to the following effect:

> "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the Crown.

3. It has been contended on the side of the banks that the Act applies only when there is an industrial dispute between the employers and workmen as defined in the Act and that as officers are not "workmen", the Tribunal has no jurisdiction to decide anything concerning them. On the other hand, the employees have urged that the words "any person" in clause (*k*) comprises

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* Subject to the following minutes of dissent by Mr. N. Chandrasekhara Aiyar.

non-workmen also and that if an industrial dispute is raised as regards the terms of employment or non-employment of such non-workmen the Tribunal is bound to hear and decide the matter.

4. In the interim award of this Tribunal dated the 19th January 1950 two of the Members of this Tribunal (Mr. Sen and Mr. Majumdar) have dealt with this question at some length and they have held that employees discharged and dismissed before the order of 13th June 1950 came into force had the right to have their cases heard by the Tribunal. As supporting the view taken by them they have referred to *R.* vs. *National Arbitration Tribunal* (All England Law Reports 1947, Vol. 2, page 893), the judgment of the Federal Court of India in the *Western India Automobile Association* vs. *Industrial Tribunal, Bombay,* and the decision by Mr. Justice Sen of the Calcutta High Court in *Birla Bros* vs. *Employees' Union.*

5. The three authorities cited related to the case of dismissed workmen and overruled the argument that as they were not workmen on the date of the dispute or reference there was no jurisdiction. They do not however hold that the word " any person " is used in its etymological sense and comprises even people who do not belong to the class of employers or the class of workmen. To give such an extended scope or meaning to the words would lead to obvious difficulties as will be shown presently.

6. Surely, the words are not intended to connote persons who are totally outside any industrial concern. They must mean in the context any person connected with the particular industry in which the industrial dispute has arisen. The second necessary limitation will be that the person should have something to do with the particular establishment or concern where the dispute has cropped up. The proper salary or the alleged wrongful dismissal of a man employed in Bank A cannot furnish the basis of an industrial dispute between Bank B and its employees. We are quite aware of the consolidation of labour in general and concerted action on the part of workmen in particular industries. But no authority has yet gone so far as to say that the workmen in Bank B can raise a valid or legitimate industrial dispute with their employers because someone in another Bank has not been treated well or fairly.

7. Let us next come to a case where workmen seek to raise a dispute about non-workmen, *i.e.,* officers in their own bank, who have been improperly dismissed or discharged or who, according to them, is being paid much more or much less than is proper or justifiable. The bank and the officer concerned have no dispute as between themselves. If it is to be held that even in such a case the workmen can bring up the question before the Tribunal for adjudication or decision, on whom is the ultimate adjudication binding ? Is an officer who has no concern with the dispute bound by what the Tribunal may say and is the bank under the obligation to give effect to the ruling ?

8. The difficulty is not adequately met by the answer that in such a case the appropriate Government will not probably refer the dispute to a Tribunal and that it would be open to the Tribunal to refuse to decide the point raised. If the scope of the Act is as wide as the employees contend it is, Government is bound to refer the dispute to a Tribunal if it is satisfied that it is *bona fide.* Once a reference is made the Tribunal has to adjudicate. The decision cannot be avoided on the ground that the dispute has no substance or material.

9. The addition of the officer as a party to the dispute will be a most extraordinary step. He does not raise the dispute. In fact, he does not want to. The bank has no dispute either. A third party's case is to be adjudicated upon

by a Court when the third party is least concerned in the fight. The procedure contemplated by the Civil Procedure Code as well as under sub-clause (*b*) of s. 18 is appropriate only to those cases where the party sought to be added can be said to represent or be represented by the actual contestants. Otherwise, he is and continues to be, in the eye of the law, a third party—an utter stranger.

10. It is fairly clear to my mind that " any person " in the Act means any one who belongs to the employer class or the workmen class and the cases in whose favour or against whom can be said to be adequately presented by the group or category of persons to which he belongs.

11. As stated already it should be remembered that the cases relied upon for the view that ' any person ' may mean others also besides the workmen were all cases relating to workmen. They were discharged or dismissed workmen and when their cases were taken up by the Tribunal the point was raised that they had ceased to be workmen and were therefore outside the scope of the Act. This argument was repelled.

12. In my opinion, there is no justification for treating such cases as authorities for the wider proposition that a valid industrial dispute can be raised by workmen about the employment or non-employment of someone else who does not belong and never belonged to their class or category.

13. My view therefore is that the Act does not apply to cases of non-workmen, or officers, if they may be so called.

14. A detailed reference to the relevant sections in the Civil Procedure Code and the Industrial Disputes Act strengthens this view. The theory of representation is enunciated in Explanation VI to section 11, C.P.C., where it is stated that if persons litigate *bona fide* in respect of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating; in other words, the plaintiff represents other persons' interests. To the same effect more or less is Order I Rule 8, permitting the institution of a representative suit and conferring on the person on whose behalf, or for whose benefit, a suit is instituted the right to apply to the court to be made a party. The same principle is reiterated in sub-clauses (*c*) and (*d*) of section 18 of the Industrial Disputes Act which deals with the question on whom the award of the Tribunal shall be binding.

15. It is no doubt true that under sub-clause (*b*) in the said Section and under sub-clause (2) of Rule 10, Order I of the C.P.C., there is power vested in the Court or the Tribunal to add persons as parties. But this power does not enable the Court to add any one, as it pleases. Before taking such a step, the Tribunal must be satisfied that the person sought to be added will be a proper party or that his presence before the Court may be necessary in order to enable effectually and completely to adjudicate upon and settle all the questions involved in the suit. In other words the person sought to be added must be a proper party or a necessary party. He will be a proper party if any principle or representation is applicable to him. He will be a necessary party only in the event of the Court finding itself unable to decide a dispute between the plaintiffs and the defendants without his presence. Let us take an instance where the workmen complain that the Manager of a bank is paid for more than is justified by his qualification or is warranted by the resources of the bank and that because of such payment, they are getting much less than their proper wage. When such a question arises, there is no representative character of the Manager. The employees are interested in securing a proper wage. In seeking to establish this right, they give us a ground, namely, the extravagent salary received by the

Manager, as a reason for not getting what they would otherwise be entitled to. The salary of the Manager is only a step in the argument. The dispute raised by the workmen is as regards the inadequacy of their own wages which they can make out by several lines of reasons; one of them may be that the administration of the bank is top-heavy. This, however, does not mean that the dispute is primarily concerned with the terms of employment of the superior staff, and that the members of the staff should therefore be made parties. Such a view would lead to startling and very undesirable consequences.

16. This conclusion does not however mean that the workmen affected should themselves be parties and that otherwise no industrial dispute could be said to arise. Trade Unions to which they belong or other representatives of such workmen can raise a dispute on their behalf and for their benefit. But it is difficult to say how any dispute can be referred to a Tribunal on the ground that it is an industrial dispute. What the officers themselves cannot do under the Act, cannot be permitted to be done indirectly through the agency of trade unions of workmen. Once it is conceded that an officer does not fall within the definition of 'workmen' he cannot go up before the Tribunal with a grievance of his own and for the redress of the same. To permit his case to be agitated by a group of persons, to whom he does not belong taking advantage of the use of the word 'any person' in the Industrial Disputes Act, would be contrary to the provisions of the Act and its obvious intention, *viz.*, to protect the workmen and clothe them with certain rights and who are dealt with in all labour legislations as the weaker party compared with the capitalists or industrialists. Any legitimate complaint of themselves or those to whom they represent can be enquired into, investigated or decided. Questions concerning officers' salaries or the treatment accorded to them concern the workmen only remotely. In the former case they can only ask for better wages being paid to them and in the latter it is the concern of the officer to see that any injustice that may have been done to him is set right.

17. The two English cases, *Hodge* v. *Webb* 1920 (2 Ch. Division) p. 70, and *White* v. *Rily* 1921 (1 Ch. Division) p. 1, have nothing to do with the question before us. The point involved in them was whether the question of membership of a person in a particular trade union could form the subject matter of an industrial dispute between workmen and workmen. In both the cases the person concerned was the workman himself.

(Sd.) N. CHANDRASEKHARA AIYAR, *Member.*

Minute of Dissent by Mr. N. Chandrasekhara Aiyar as regards Chapter XIV of the main award.

I see no justification whatever for not awarding house rent allowance for the Madras employees. There is no principle behind the proposed disallowance. If the cost of living in Madras has risen very much, as compared to Bombay and Calcutta, it is an additional ground why the Madras employees should get the allowance; it can be no reason for depriving them of it. The problem of housing is as acute in Madras as in the other cities mentioned. It would be unfair and unjust to deny to the Madras employees this privilege. It is bad enough that statistics have led us to classify Madras in the Class II area. To deprive Madras of the house rent allowance also would place the employees in great disadvantage and would mean much hardship to them.

(Sd.) N. CHANDRASEKHARA AIYAR, *Member.*

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APPENDICES

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LIST OF APPENDICES

I	(1) Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949 (VI of 1949).
	(2) Ministry of Labour, Order No. LR-2 (212), dated the 13th June 1949.
	(3) Ministry of Labour, Notification No. LR-2 (212), dated the 12th August 1949.
	(4) Ministry of Labour, Notification No. LR-(272), dated the 6th February 1950.
	(5) Ministry of Labour, Order No. LR-2 (212), dated the 28th September 1949.
II	List of regional and other unions of bank employees which filed statements of claims before the Tribunal.
III	Summaries and extracts of the Tribunal's interim relief awards.
IV	(1) Industrial Tribunal (Procedure) Rules, 1949.
	(2) Rule 21-A of the Industrial Disputes (Central) Rules, 1947.
V	List of persons who appeared before the Tribunal at Bombay during the course of the main adjudication proceedings on behalf of banks and their workmen.
VI	Model Provident Fund Rules for Industrial Employees.
VII	Copy of the Memorandum of the Head Office of the National City Bank of New York suggesting method of adjusting retirement benefits in the case of banks paying high salaries, dearness allowance, etc.
VIII	Bibliography of the Books, Reports, Awards and Periodicals referred to in the award.
IX	Tribunal's awards regarding cases of alleged victimization and orders on applications for retrenchment.

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APPENDIX I

(1)

GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 30th April, 1949

ORDINANCE No. VI OF 1949

AN

ORDINANCE

to provide for the adjudication of industrial disputes concerning certain banking and insurance companies.

WHEREAS an emergency has arisen which makes it necessary to provide for the adjudication of industrial disputes concerning banking and insurance companies having branches or other establishments in more than one Province;

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo., 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(*1*) This Ordinance may be called the Industrial Disputes (Banking and Insurance Companies) Ordinance, 1949.

(*2*) It extends to all the Provinces of India.

(*3*) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context, the expressions "award", "banking company", "industrial dispute" and "insurance company" have the meanings respectively assigned to them in section 2 of the Industrial Disputes Act, 1947 (XIV of 1947) as amended by this Ordinance.

3. *Amendment of section 2, Act XIV of 1947.*—In section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act),—

(*1*) in sub-clause (*i*) of clause (*a*), for the words "a mine, oil-field" the words "a banking or an insurance company, a mine, an oil-field" shall be substituted;

(*2*) after clause (*b*) the following clause shall be inserted, namely:—

"(*bb*) 'banking company' means a banking company as defined in section 5 of the Banking Companies Act, 1949 (X of 1949) having branches or other establishments in more than one Province, and includes the Imperial Bank of India";

(*3*) after clause (*kk*), the following clause shall be inserted, namely:—

"(*kk*) 'insurance company' means an insurance company as defined in section 2 of the Insurance Act, 1938 (IV of 1938), having branches or other establishments in more than one Province".

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4. *Prohibition of references by Provincial Governments of certain industrial disputes for adjudication, inquiry or settlement.*—Notwithstanding anything contained in any other law, it shall not be competent for a Provincial Government or any officer or authority subordinate to such Government to refer an industrial dispute concerning any banking or insurance company, or any matter relating to such dispute, to any tribunal or other authority for adjudication, inquiry or settlement.

5. *Abatement of proceedings relating to disputes pending before Provincial tribunals and reference of such disputes to tribunals constituted by the Central Government.*—(1) Where under any law any industrial dispute concerning any banking or insurance company or any matter relating to such disputes has, before the commencement of this Ordinance, been referred by a Provincial Government or any officer or authority subordinate to such Government to any tribunal or other authority for adjudication or settlement and any proceedings in respect of or arising out of such reference were immediately before such commencement pending before any tribunal or other authority, then on the date of such commencement such reference shall be deemed to be withdrawn and all such proceedings shall abate.

(2) The Central Government shall, as soon as may be after the commencement of this Ordinance, by order in writing, refer under section 10 of the said Act every industrial dispute to which the provisions of sub-section (1) apply to an Industrial Tribunal constituted under the said Act for adjudication.

6. *Powers of Central Government to refer disputes in respect of which awards or decisions have been made for readjudication.*—(1) Where any award or decision has been made in respect of any industrial dispute concerning any banking or insurance company by any tribunal or other authority constituted or appointed by a Provincial Government, or any officer or authority subordinate to such Government, then the Central Government may, notwithstanding that the said award or decision is in force, by order in writing refer under section 10 of the said Act the dispute or any of the matters in dispute to an Industrial Tribunal constituted under the said Act for readjudication and stay the implementation of the award or decision so made or of any part of such award or decision until the Industrial Tribunal to which the dispute or any of the matters in dispute is referred for readjudication has submitted its award or for such further period as the Central Government may consider necessary.

(2) After the Industrial Tribunal to which the dispute or any of the matters in dispute has been so referred for readjudication has submitted its award under sub-section (1) of section 15 of the said Act, the Central Government may, by order in writing, declare that the award or decision previously made in respect of such dispute by the tribunal or other authority constituted or appointed by the Provincial Government or any officer or authority subordinate to such Government or such part of that award or decision as may be specified in the order shall cease to be in operation.

C. RAJAGOPALACHARI,
Governor-General.

K. V. K. SUNDARAM,
Secretary to the Government of India.

(Vide *Gazette of India*, Extraordinary, dated April 30, 1949, p. 749.)

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(2)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 13th June, 1949

No. LR 2 (205).—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to constitute an Industrial Tribunal consisting of the following members, for the adjudication of industrial disputes in banking coinpanies, namely,

1. Mr. K. C. Sen, President, Industrial Court, Bombay and retired Judge of the High Court of Judicature, Bombay—*Chairman.*
2. Mr. S. P. Varma, Chairman, Industrial Tribunal, Dhanabad and retired Judge of the High Court of Judicature, Patna—*Member.*
3. Mr. J. N. Majumdar, Retired Judge of the High Court of Judicature, Calcutta—*Member.*

ORDER

New Delhi, the 13th June 1949

No. LR 2 (212).—Whereas an industrial dispute has arisen between the banking companies mentioned in Schedule I annexed hereto (including their branches) and their employees in respect, so far as the Central Government is aware of the matters specified in Schedule II hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (*c*) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to refer the said dispute for adjudication to the Industrial Tribunal constituted under section 7 of the said Act by Notification of the Government of India in the Ministry of Labour No. LR-2 (205), dated the 13th June, 1949.

SCHEDULE I.

(List of Scheduled banks having branches in more than one Province or State).

GROUP A.

(*i*) Banks having deposits of over Rs. 50 crores.—

1. Imperial Bank of India.
2. Central Bank of India, Ltd.
3. Bank of India, Ltd.

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(*ii*) Exchange Banks.—

1. Bank of China, Ltd.
2. Chartered Bank of India, Australia and China.
3. Comptoir National D'Escompete de Paris.
4. Eastern Bank, Ltd.
5. Grindlays Bank, Ltd.
6. Hongkong and Shangai Banking Corporation.
7. Lloyds Bank, Ltd.
8. Mercantile Bank of India, Ltd.
9. National Bank of India, Ltd.
10. National City Bank of New York.
11. Netherlands India Commercial Bank.
12. Netherlands Trading Society.

GROUP B.

Other scheduled banks having deposits between Rs. 15 and 50 crores.

1. Allahabad Bank, Ltd.
2. Bank of Baroda, Ltd.
3. Indian Bank, Ltd.
4. Punjab National Bank, Ltd.
5. United Commercial Bank, Ltd.

GROUP C.

Other scheduled banks.—

1. Andhra Bank, Ltd.
2. Bank of Assam, Ltd.
3. Bank of Behar, Ltd.
4. Bank of Bikaner, Ltd.
5. Bank of Jaipur, Ltd.
6. Bank of Maharashtra, Ltd.
7. Bank of Mysore, Ltd.
8. Bank of Nagpur, Ltd.
9. Bank of Rajasthan, Ltd.
10. Bengal Central Bank, Ltd.
11. Bharat Bank, Ltd.
12. Bharatha Lukshmi Bank, Ltd.
13. Calcutta National Bank, Ltd.
14. Canara Bank, Ltd.
15. Canara Banking Corporation, Ltd.
16. Canara Industrial and Banking Syndicate, Ltd.
17. Comilla Banking Corporation, Ltd.
18. Comilla Union Bank, Ltd.
19. Devakaran Nanji Banking Company, Ltd.
20. Dinajpore Bank, Ltd.
21. Gadodia Bank, Ltd.
22. Habib Bank, Ltd.

23. Hind Bank, Ltd.
24. Hindustan Commercial Bank, Ltd.
25. Hindustan Mercantile Bank, Ltd.
26. Hyderabad State Bank, Ltd.
27. Indian Overseas Bank, Ltd.
28. Indo-Commercial Bank, Ltd.
29. Indo-Mercantile Bank, Ltd.
30. Jodhpur Commercial Bank, Ltd.
31. Laxmi Bank, Ltd.
32. Mercantile Bank of Hyderabad, Ltd.
33. Narang Bank of India, Ltd.
34. Nath Bank, Ltd.
35. National Bank of Lahore, Ltd.
36. National Savings Bank, Ltd.
37. Nedungadi Bank, Ltd.
38. New Citizen Bank of India, Ltd.
39. Oriental Bank of Commerce, Ltd.
40. Palai Central Bank, Ltd.
41. Prabhat Bank, Ltd.
42. Pratap Bank, Ltd.
43. Punjab & Sind Bank, Ltd.
44. Punjab Co-operative Bank, Ltd.
45. Southern Bank, Ltd.
46. South India Bank, Ltd.
47. South Indian Bank, Ltd.
48. Travancore Bank, Ltd.
49. Travancore Forward Bank, Ltd.
50. Union Bank of India, Ltd.
51. United Industrial Bank, Ltd.
52. Vysya Bank, Ltd.

GROUP D.

(Banks which have suspended payments or are granted moratorium or are prohibited from accepting fresh deposits or are in liquidation).

1.	Calcutta Commercial Bank, Ltd. . .	Under Moratorium.
2.	Exchange Bank of India and Africa, Ltd.	Provisional liquidator appointed.
3.	Jwala Bank, Ltd.	Prohibited from accepting fresh deposits.
4.	Laxmi Commercial Bank, Ltd. . .	Working under scheme of arrangements.
5.	Mahaluxmi Bank, Ltd.	Under moratorium.
6.	New Bank of India, Ltd.	Working under scheme of arrangements.
7.	Noakhali Union Bank, Ltd.	Under moratorium.
8.	Pioneer Bank, Ltd.	Under moratorium.
9.	Traders Bank, Ltd.	Working under scheme of arrangements.
10.	Tripura Modern Bank, Ltd.	Application for scheme of arrangement pending.

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(List of non-scheduled banks having offices in more than one Province or State).

GROUP A.

Bank working normally.

1. Agricultural and Industrial Bank, Ltd., Coondapur.
2. All-India Bank, Ltd., Calcutta.
3. Ambat Bank, Ltd., Chittur, Cochin.
4. Associated Bank of Tripura, Ltd., Calcutta.
5. B. & A. Bank, Ltd., Calcutta.
6. Bank of Indore, Ltd., Indore.
7. Bank of Industries, Ltd., Calcutta.
8. Bank of Sirmur, Ltd., Sirmur.
9. Benares State Bank, Ltd., Benares State.
10. Bengal Bank, Ltd., Calcutta.
11. Bengal Express Bank, Ltd., Calcutta.
12. Bengal Oriental Bank, Ltd., Comilla, E.P.
13. Bharat National Bank, Ltd., Chakradharpur, Bihar.
14. Bharata Bank, Ltd., Piravom, Travancore State.
15. Bishanupur Bank, Ltd., Bishanupur, Bengal.
16. Catholic Syrian Bank, Ltd., Trichur, Cochin.
17. Catholic Union Bank, Ltd., Mela, Cochin.
18. Central Calcutta Bank, Ltd., Calcutta.
19. Central Mercantile Bank, Ltd., Monghyr, Bihar.
20. Chaldean Syrian Bank, Ltd., Trichur, Cochin.
21. Cochin Commercial Bank, Ltd., Cochin.
22. Cochin Nayar Bank, Ltd., Trichur, Cochin.
23. Cochin Union Bank, Ltd., Cochin.
24. Coconada Radhasoami Bank, Ltd., Coconada, Madras.
25. Comilla Commercial Bank, Ltd., Calcutta.
26. Depositors Bank, Ltd., Lahore, West Punjab.
27. Dhanalakshmi Bank, Ltd., Trichur, Cochin.
28. East Bengal Bank, Ltd., Calcutta.
29. Gauhati Bank, Ltd., Gauhati, Assam.
30. C. Raghunathmull Bank, Ltd., Hyderabad (Deccan).
31. Hindu Bank, Karur, Ltd., Trichinopoly, Madras.
32. Indian Insurance and Banking Corporation, Ltd., Trichur, Cochin.
33. Indian Relief Bank, Ltd., Madras.
34. India's Ideal Banking Corporation, Ltd., Bangalore.
35. Inland Bank, Ltd., Calcutta, (H.O.) Patna.
36. Jayalaxmi Bank, Ltd., Mangalore, S. Canara, Madras.
37. Joona Bank, Ltd., Hattancharry, Cochin.
38. Karnataka Bank, Ltd., Mangalore, S. Canara, Madras.
39. Lord Krishna Bank, Ltd., Cranganoor, Cochin.
40. Loyal Bank, Ltd., Chandpur, East Pakistan.
41. Maharashtra Apex Bank, Ltd., Udipi, S. Kanara, Madras.
42. Malabar Bank, Ltd., Trichur, Madras.
43. Malarkode Bank, Ltd., Palghat.
44. Manindra Banking Corporation, Ltd., Berhampur.
45. Mannar Bank, Ltd., Mannar, (*via*) Mavelikara, Travancore.
46. Model Bank of India, Ltd., Calcutta.
47. National Central Bank, Ltd., Calcutta.
48. National City Bank, Ltd., Jullundur.

49. Orient Bank of India, Ltd., Patna.
50. Overland Bank, Ltd., Calcutta.
51. People's Credit Bank, Ltd., Calcutta.
52. Prabhakar Bank, Ltd., Moodbidri, S. Kanara.
53. Provincial Union Bank, Ltd., Calcutta.
54. Punjab Central Bank, Ltd., Delhi.
55. Sakti Bank, Ltd., Calcutta.
56. Safe Bank, Ltd., Nagpur City.
57. Sonapur Bank, Ltd., Calcutta.
58. Sterling Bank, Ltd., Calcutta.
59. Suburban Bank, Ltd., Trichur.
60. Thomco Bank, Ltd., Alleppey, Travancore.
61. Tripura State Bank, Ltd., Agartala, Tripura State.
62. United Calcutta Bank, Ltd., Calcutta.
63. United Central Bank, Ltd., Calcutta.
64. Union Bank of Bengal, Ltd., Calcutta.
65. U. P. Union Bank, Ltd., Gonda, U. P.
66. Vijaya Bank, Ltd., Mangalore, S. Kanara, Madras.

GROUP B.

Banks which are working under scheme of arrangement or are in liquidation, etc.

1.	Aryan Bank, Ltd., Calcutta	Working under scheme of arrangement.
2.	Assam Bengal Central Industrial Bank, Ltd., Silchar.	Defunct though its affairs are not wound up formally.
3.	Associated Bank of India, Ltd., Calcutta.	Working under scheme of arrangement.
4.	Bengal Union Bank, Ltd., Calcutta ..	Working under scheme of arrangement.
5.	Bharat Mercantile Bank, Ltd., Calcutta.	Reported to be in voluntary liquidation.
6.	Calcutta Mercantile Bank, Ltd., Calcutta.	Provisional liquidator was appointed and later discharged. Copy of Court order awaited.
7.	Dass Bank, Ltd., Calcutta	Petition for sanction of scheme of arrangement pending in the Court.
8.	Dhakuria Banking Corporation, Ltd., Calcutta.	Stated to have closed its doors from 15th September 1948.
9.	Eastern Traders Bank, Ltd., Calcutta.	Petition for its winding up pending in Court.
10.	Girish Bank, Ltd., Calcutta	Scheme of arrangement pending for final sanction.
11.	Hazardi Bank, Ltd., Calcutta ..	According to press reports the bank has been ordered by the Court to be compulsorily wound up.
12.	Indian National Bank, Ltd., Calcutta	Working under scheme of arrangement.
13.	National Chamber's Bank, Ltd., Gauhati.	Reported to be defunct.

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14.	National Economic Bank, Ltd., Calcutta.	Petition for its winding up pending before Calcutta High Court.
15.	Northern Bank, Ltd., Calcutta ..	Working under scheme of arrangement.
16.	Public National Bank, Ltd., Calcutta.	Latest position not known.
17.	Punjab and Kashmir Bank, Ltd., Delhi.	Under scheme of arrangement.
18.	Sahukara Bank, Ltd., Ludhiana ..	Under scheme of arrangement.
19.	Shillong Banking Corporation, Ltd., Shillong.	Scheme of arrangement pending.
20.	Simla Banking and Industrial Co., Ltd., Simla.	Applied for scheme of arrangement.
21.	Sonar Bangla Bank, Ltd., Calcutta ..	Working under scheme of arrangement.
22.	Suburban Bank, Ltd., Calcutta ..	Ordered to be compulsorily wound up.

SCHEDULE II

1. Scales of pay, including :—

(*a*) whether the remuneration of employees and their periodical increment should be correlated to their efficiency and attendance, and

(*b*) whether, if basic scales are recommended, such scales of pay of particular categories should be uniform all over India and whether the difference in the cost of living of the various centres should be adjusted by the grant of compensatory allowances.

2. Rules for fitting the existing staff into the revised scales of pay.

3. Dearness allowance to staff as well as pensioners. Can a portion of the dearness allowance be transferred to, and absorbed in, the basic wage ? In particular can this be done in the case of banks in the United Provinces in respect of the allowance payable at the commencement of Shri B. B. Singh's award ?

4. House rent allowance. If this allowance is payable, should it be paid to all employees falling under the category of workmen ?

5. Other allowances payable, for example, children's allowance, conveyance allowance for clerks for journeys to and from the clearing house, outstation allowance to members of the Cash Department going out with cash.

6. Bonus, including the qualifications for eligibility and method of payment.

7. Provident fund, including the rate of contribution and the rate of interest.

8. Gratuity, including whether it should be compulsory or *ex-gratia* ? Does the scheme recommended by Shri B. B. Singh for the United Provinces in his award need revision ?

9. Pension, including the question whether any pension scheme should be introduced in banks having Provident Fund and/or Gratuity Schemes.

10. Guarantee Fund.

11. Insurance against old age, sickness, death or injury from accidents in the course of the discharge of duties.

12. Leave Rules.

13. Hours of working and overtime.

14. Medical aid and expenses.

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15. Cash deposits, fidelity bonds and other securities to be furnished by staff including the questions :—

(*a*) Whether failure to furnish such security should operate as a ban on confirmation, and

(*b*) whether the schme of security and guarantee introduced by the Punjab National Bank Ltd., is suitable.

16. Recognition of (1) The Punjab National Bank Employees' Union (East Punjab); (ii) The Bharat Bank Employees' Union, Delhi; (iii) The United Province Employees' Unions.

17. Method of recruitment, terms and conditions of service and procedure for termination of employment or for taking other disciplinary action.

18. Retrenchment and victimisation (Specific cases to be cited by employees).

19. Payment of workers reinstated under item 18.

20. Whether income and professional taxes payable by employees should be paid on their behalf by banks ?

21. Utilization of proceeds from fines.

22. Subsistence allowance during periods of suspension.

23. Whether head cashiers or treasurers' representatives or any employees who perform their functions are to be treated as Department Incharges.

24. Waiving of age restrictions for promotion to supervisory grades.

25. Policy regarding transfer of employees.

26. Travelling allowance and joining time on transfer.

27. Whether cash compensation is payable to employees of branches situated in Pakistan who have had to come away to India and have not been employed in the Branches in India.

28. Should bank pensioners be entitled to accept employment after retirement with or without the permission of the banks from which they draw their pensions.

29. Return of quarters to peons, etc. of Bharat Bank, Ltd., Delhi, who were deprived of quarters after the strike in December 1948.

30. Right to existing terms of service where they are more liberal than those of the awards of this Tribunal.

31. Rules regarding promotions.

32. Works Committees—Should they be established or not ?

33. Should banks be classified into different categories for the purposes of this adjudication and if so, on what lines ?

34. How should branch officers be classified, having regard to the extent of their business.

35. Should shops and commercial establishments acts and similar provincial enactments apply to all banks without exception ?

36. Standing Orders regulating the conditions of service of bank employees and the procedure in making amendments to them.

37. Categories of employees to whom the award of the Tribunal is applicable.

38. In what manner and to what extent do the decisions of the Tribunal require modification in the case of employees of banks under liquidation or moratorium.

NOTE :—This list is *not* intended to be exhaustive.

K. N. SUBRAMANIAN,
Joint Secretary.

(Vide *Gazette of India*, Extraordinary, dated June 13, 1949, p. 995.)

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(3)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 12th August 1949

No. LR-2 (212).—In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to direct that the following amendment shall be made in the Order of the Government of India in the Ministry of Labour, No. LR-2 (212), dated the 13th June 1949, namely :—

In the said Order, after the words "whereas an industrial dispute has arisen", the words "or is apprehended" shall be inserted.

K. N. SUBRAMANIAN,
Joint Secretary.

(Vide *Gazette of India*, Part I—Section 1, dated September 20, 1949, p. 1127.)

(4)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi the 6th February 1950

No. LR-2 (272).—In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to direct that the following amendment shall be made in the Order of the Government of India in the Ministry of Labour No. LR-2 (212), dated the 13th June 1949 as subsequently amended namely :—

In Schedule I to the said Order, under Group C of the list of schedule banks having branches in more than one province or state the words and figures "22 Habib Bank Ltd." shall be deleted, and under Group B of the list the words and figures "6. Habib Bank Ltd." shall be inserted at the end.

S. C. AGGARWAL,
Deputy Secretary to the Government of India.

(Vide *Gazette of India*, Part I—Section 1, dated February 18, 1950, p. 242.)

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GOVERNMENT OF INDIA

MINISTRY OF LABOUR

ORDER

New Delhi, the 28th September 1949

No. IR-2 (212).—Whereas an industrial dispute arose in about June 1949 and still exists between the banking companies mentioned in Schedule I annexed here (including their branches) and their employees in respect, so far as the Central Government is aware, of the matters specified in Schedule II hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to refer the said dispute for adjudication to the Industrial Tribunal constituted under section 7 of the said Act by Notification of the Government of India in the Ministry of Labour No. LR-2(205), dated the 13th June 1949, as amended from time to time.

SCHEDULE I

(*List of scheduled banks having branches in more than one Province*)

GROUP A.—(ii) *Exchange Banks.*—

1. American Express Company Inc.

(*List of non-scheduled banks having branches in more than one Province*)

GROUP A.—*Banks working Normally.*

1. Palli Bank Ltd., Daulatpur East Pakistan.
2. Shree Bharat Industrial Bank Ltd., Calcutta.
3. Sunrise Bank Ltd., Agartala, Tripura State.

GROUP B.—*Banks which are working under scheme of arrangement or are in liquidation, etc.*

1. Allied Exchange Bank Ltd., Calcutta—Gone into liquidation.
2. Bank of Calcutta Ltd., Calcutta—Gone into liquidation.
3. Bharati Central Bank Ltd., Calcutta—Gone into liquidation.
4. Bogra City Bank Ltd., Calcutta—Gone into liquidation.
5. Calcutta City Bank Ltd., Calcutta—Gone into liquidation.
6. Calcutta Industrial Bank Ltd., Calcutta—Gone into liquidation.
7. Central Commercial Bank Ltd., Calcutta—Gone into liquidation.
8. Continental Bank of Asia Ltd., Calcutta—Gone into liquidation.
9. Darjeeling Bank Ltd., Calcutta—Gone into liquidation.
10. Eastern Continental Bank Ltd., Calcutta—Gone into liquidation.
11. Economic Bank Ltd., Calcutta—Gone into liquidation.
12. East India Commercial Bank Ltd., Calcutta—Working under scheme of arrangement.

13. First National Bank Ltd., Ludhiana—Working under scheme of arrangement.
14. Great Eastern Bank Ltd., Calcutta—Gone into liquidation.
15. Hindustan Industrial Bank Ltd., Calcutta—Gone into liquidation.
16. Hindustan Standard Bank Ltd., Calcutta—Gone into liquidation.
17. India Exchange Bank Ltd., Calcutta—Gone into liquidation.
18. Indian Peoples' Bank Ltd., Calcutta—Gone into liquidation.
19. Kuver Bank Ltd., Calcutta—Gone into liquidation.
20. Mandi Bank Ltd., Lahore—In liquidation.
21. New National Bank Ltd., Calcutta—Gone into liquidation.
22. New Hindustan Bank Ltd., Amritsar—Gone into liquidation.
23. National Security Bank Ltd., Bombay—Gone into liquidation.
24. Pacific Bank Ltd., Calcutta—Gone into liquidation.
25. Pioneer Commercial Bank Ltd., Calcutta—Gone into liquidation.
26. Puri Bank Ltd., Puri—Gone into liquidation.
27. Radiant Bank Ltd., Comilla, East Pakistan—Working under scheme of arrangement.
28. Sree Luxmi Bank Ltd., Karimganj—Gone into liquidation.
29. Surma Valley Bank Ltd., Sylhet—Working under scheme of arrangement.
30. Standard Bank Ltd., Sylhet—Present position not known.
31. Tripura Popular Bank, Ltd., Calcutta—Gone into liquidation.

SCHEDULE II

1. Scales of pay, including—

   (*a*) whether the remuneration of employees and their periodical increments should be correlated to their efficiency and attendance, and ..... if basic scales are recommended, such scales of pay of particular categories should be a uniform all over India and whether the differences in the cost of living of the various places should be adjusted by the grant of compensatory allowances.

2. Rules for fitting the existing staff into the revised scales of pay.
3. Dearness allowance to staff as well as pensioners. Can a portion of the dearness allowance be transferred to, and absorbed in, the basic wages. In particular, can this be done in the case of banks in the United Provinces in respect of the allowance payable at the commencement of Shri B. B. Singh's award ?
4. House rent allowance. If this allowance is payable, should it be paid to all employees falling under the category of workmen ?
5. Other allowances payable, for example, children's allowance, conveyance allowance for clerks for journeys to and from the clearing house, outstation allowance to members of the Cash Department goin out with cash.
6. Bonus, including the qualifications for eligibility and method of payment.
7. Provident fund, including the rate of contribution and the rate of interest.
8. Gratuity, including whether it should be compulsory or *ex-gratia* ? Does the scheme recommended by Shri B. B. Singh for the United Provinces in his award need revision ?

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9. Pension, including the question whether any pension scheme should be introduced in banks having Provident Fund and/or Gratuity Schemes.

10. Guarantee Fund.

11. Insurance against old age, sickness, death or injury from accidents in the course of the discharge of duties.

12. Leave Rules.

13. Hours of work and overtime.

14. Medical aid and expenses.

15. Cash deposits, fidelity bonds and other securities to be furnished by staff, including the questions :—

(*a*) whether failure to furnish such security should operate as a ban on confirmation, and

(*b*) whether the scheme of security and guarantee introduced by the Punjab National Bank, Ltd., is suitable.

16. Recognition of (i) The Punjab National Bank Employees' Union (East Punjab), (ii) The Bharat Bank Employees' Union, Delhi, (iii) The United Provinces Bank Employees' Unions.

17. Method of recruitment, terms and conditions of service and procedure for termination of employment or for taking other disciplinary action.

18. Retrenchment and victimisation (specific cases to be cited by employees).

19. Payment of workers reinstated under item 18.

20. Whether income and professional taxes payable by employees should be paid on their behalf by banks ?

21. Utilization of proceeds from fines.

22. Subsistence allowance during periods of suspension.

23. Whether head cashiers' or treasurers' representatives or any employees who perform their functions are to be treated as Departmental Incharges.

24. Waiving of age restrictions for promotion to supervisory grades.

25. Policy regarding transfer of employees.

26. Travelling allowance and joining time on transfer.

27. Whether cash compensation is payable to employees of branches situated in Pakistan who have had to come away to India and have not been employed in the Branches in India.

28. Should bank pensioners be entitled to accept employment after retirement with or without the permission of the banks from which they draw their pensions ?

29. Return of quarters to peons, etc., of Bharat Bank Ltd., Delhi, who were deprived of quarters after the strike in December 1948.

30. Right to existing terms of service where they are more liberal than those of the awards of this Tribunal.

31. Rules regarding promotions.

32. Works Committees—should they be established or not ?

33. Should banks be classified into different categories for the purposes of this adjudication and if so, on what lines ?

34. How should branch offices be classified, having regard to the extent of their business ?

35. Should shops and commercial establishments acts and similar provincial enactments apply to all banks without exception ?

36. Standing Orders regulating the conditions of service of bank employees and the procedure in making amendments to them.

37. Categories of employees to whom the award of the Tribunal is applicable.

38. In what manner and to what extent do the decisions of the Tribunal require modification in the case of employees of banks under liquidation or moratorium ?

NOTE.—This list is not intended to be exhaustive.

N. C. KUPPUSWAMI,
Under Secretary.

(Vide *Gazette of India*, Extraordinary, dated October 8, 1949, p. 1865.)

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APPENDIX II

List of Regional and other Unions of Bank Employees which filed Statements of Claims before the Tribunal.

Serial No.	State		Name of the Union or Association	Place
1.	Assam		Gauhati Bank Employees' Association	Gauhati.
2.	Bihar		Bank of Bihar Employees' Association	Patna.
			Behar Bharat Bank Employees' Union	,,
			Behar Bharat Bank Employees' Sub-Union	Jahanabad.
			Bharat Bank Employees' Union	Gaya.
			Bihar Provincial Central Bank of India Employees' Association.	Patna.
			Central Bank of India Employees' Association.	,,
		(R)	Gaya District Bank Employees' Association.	Gaya.
			Punjab National Bank Employees' Association.	Jamshedpur.
3.	Bombay	(R)	Ahmedabad Banks' Employees' Union	Ahmedabad.
			Bank of India, Limited Staff Union	,,
		(R)	Federation of Bank Employees	Bombay.
			Imperial Bank of India, Indian Staff Association (Bombay Circle).	,,
			Imperial Bank of India Staff Association (Bombay Circle).	Poona.
			Imperial Bank of India Staff Federation	Poona City.
			National Bank of India (Bombay Branch) Clerks' Union.	Bombay.
			Punjab National Bank, Limited Employees' Union.	,,
		(R)	Surat Bank Employees' Union	Surat.
		(R)	Vadodra Rajiya Bank Nakor Sangh	Baroda.
4.	Madras		Andhra Bank Employees' Union	Masulipatam.
			Canara Bank Staff Association	Madras.
			Central Bank of India Employees' Association.	,,
			Commercial Employees' Association	,,
			Imperial Bank of India Indian Staff Union (Madras Circle).	,,
			Indian Staff Union of the National Bank of India, Limited, (Madras Branch).	,,
5.	Punjab		Hindustan Commercial Bank Employees' Union.	Batala.
			Punjab National Bank Employees' Union	Ludhiana.
6.	U.P.	(R)	U.P. Bank Employees' Union	Kanpur.
		(R)	U.P. Bank Employees' Union	Musoorie.
		(R)	U.P. Bank Employees' Union	Muzaffarnagar.
7.	West Bengal		Allahabad Bank Indian Staff Association	Calcutta.
			Bank of Assam Employees' Association	,,
			Bank of Bihar, Limited Employees' Union	,,
			Bank of India, Limited Employees' Union	,,
			Bengal Central Bank Employees' Association	,,
			Bharat Bank, Calcutta Employees' Association	,,
			Central Bank of India Employees' Association.	,,
			Comilla Banking Corporation Employees' Association.	,,

Serial No.	State		Name of the Union or Association	Place
			Comilla Union Bank Employees' Association.	Calcutta.
			Eastern Bank, Calcutta Branch Indian Employees' Union.	„
			Grindlays Employees' Association	„
			Hind Bank Employees' Union	„
			Hindustan Commercial Bank Employees' Association (Bengal Circle).	„
			Hindustan Mercantile Bank Employees' Union.	„
			Hongkong and Shanghai Banking Corporation Indian Staff Union.	„
			Imperial Bank of India Indian Staff Association (Bengal Circle).	„
			Lloyds Bank Indian Staff Association	„
			Mercantile Bank of India, Limited Employees' Union.	„
			Nath Bank Employees' Association	„
			National Bank of India, Limited (Calcutta Branch) Indian Staff Union.	„
			Netherlands India Commercial Bank Employees' Union.	„
			Punjab National Bank Employees' Union	„
			United Commercial Bank, Limited Employees' Association.	„
8.	Delhi		Allahabad Bank Employees' Union	Delhi.
			Bharat Bank Employees' Union	„
			Punjab National Bank, Limited Employees' Union.	„
			Punjab National Bank, Limited Workmen's Union.	„
9.	Other areas	(R)	Bank of Employees' Union	Bangalore.
		(R)	Bank Employees' Union	Rajkot.
			Bank of Rajasthan Employees' Union	Jaipur.
		(R)	Bhilwara Bank Employees' Union	Bhilwara.
		(R)	Kotah Bank Employees' Union	Kotah.
			Nedungadi Bank Employees' Association	Trichur.
		(R)	Rajasthan Bank Employees' Union	Jaipur.

(R):—Regional Unions or Associations.

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APPENDIX III

Summaries and Extracts of the Tribunal's Interim Relief Awards

The first of such awards concerned the banking companies in Uttar Pradesh[1]. The Tribunal held that the employees could succeed in their demand for interim relief only if they could show that the cost of living had gone up so greatly since the date of Mr. Singh's award that it was imperative at the present stage that the Tribunal should give them immediate relief without waiting for the final adjudication. The only place in the State relating to which the cost of living index figures had been published regularly was Kanpur. Those figures were regarded as fairly representing the cost of living; and the increases therein at the following big towns of the State, *viz.*, Lucknow, Agra, Meerut, Bareilly, Kanpur, Banaras and Gorakpur, the increase in other places being taken to be some what lower. It was further held that no great injustice would be done if the published figures of cost of living indices for "working class" was relied upon for the purposes of the award. The increase in the cost of living since the date of Mr. B. B. Singh's award was found to be roughly 33 1/3 per cent. This appeared to the Tribunal to be so substantial an increase that some immediate relief to the employees was called for, the necessity for such relief outweighing the considerations that have been urged on behalf of the banks. On these grounds an increase of 33 1/3 per cent over the dearness allowance granted under Mr. Singh's award was directed to be given in the case of the seven cities of Lucknow, Agra, Meerut, Bareilly, Kanpur, Banaras and Gorakhpur and an increase of 25 per cent over such dearness allowance in other places. From the increases allowed certain deductions were to be made, *viz.*, any increase over the basic pay or dearness allowance fixed by Mr. Singh's award which had been paid by any bank and where a bank had not paid any dividend to its shareholders in 1949 any bonus which had been paid to the employees in respect of the period covered by the present award or any part thereof in the latter case it could be presumed that the bonus had been given mainly with the object of alleviating the sufferings of the employees due to the increased cost of living. Finally the Tribunal directed that in applying the above rules the maxima laid down in paragraph 17 of Mr. Singh's award should be disregarded and that any employee who had been receiving higher pay or pay in a better grade or higher allowances than had been awarded should continue to receive the same.

The next award[2] concerned 12 banking companies in Uttar Pradesh none of which existed in the said State at the date of Mr. B. B. Singh's award. Those banks were classified into the three classes mentioned in the said award. The following directions were given: "There may be more than one method of applying Mr. Singh's award and ours to the bank under consideration. We think that the fairest and simplest of such methods would be the following. Out of the total of the pay and the dearness allowances as are now being paid, credit may first be given to the extent of the full or maximum possible amount of the pay awarded by Mr. Singh, the balance, if any, being treated as the true dearness allowance; for it is admitted that certain banks, instead

1. Ministry of Labour's Notification No. LR-2(212)/I, dated the 30th August 1949, published in the *Gazette of India*, Extraordinary, dated the 31st August 1949, pp. 1507—1515.

2. Ministry of Labour's Notification No. LR-2(232)/I, dated the 8th October 1949, published in the *Gazette of India*, Part I—Section 1, dated the 15th October 1949, p. 1444—1445.

of paying increased dearness allowance have been giving increased pay, the increase really being for the enhanced cost of living. Under this method, if any difference is found between the dearness allowance arrived at by the method given above and what a workman would get as dearness allowance under the combined effect of the two awards (provided that the latter is greater), such difference can be taken as the increase to which the workman would be entitled. We direct that this method shall be followed in applying the two awards to the banks now under consideration."

The next award was about certain banking companies and their employees in Delhi and East Punjab[1]. According to the Tribunal, the question of interim relief depended mainly on two considerations: "(1) Whether the workman have been living under an intolerable strain owing to there having been an appreciable increase in their cost of living during, say, the last two years, without a corresponding rise in pay or allowances, and (2) what should be done in the case of the banks whose scales of pay and dearness allowance have always been, and are still, abnormally low." The Tribunal remarked, "As to the first question, we were unable to get the cost of living indices up to date of any city except Delhi in the area now under consideration and those indices relate only to the working class. In these circumstances we believe that it would not be unreasonable or improper to adopt the indices for Delhi as fairly representing the other places in the said area, with reference, particularly, to the question to what extent the cost of living has gone up during the last two years." According to the cost of living index figures published in the "Monthly Abstract of Statistics" for July 1949 the increase in the cost of living since 1947 was of 9 points in two years. The Tribunal concluded, "The fact that neither the local Government nor the Central Government has so far felt the necessity of referring the question of pay and dearness allowance of bank workmen for adjudication in the area under consideration as well as the fact that applications in writing have been received by the Tribunal for interim relief as late as August 1949 (the Tribunal having been appointed on the 13th June 1949), suggest that the need for interim relief in the said area cannot have been felt as acute or urgent." In view, however, of the fact that some of the banks had been paying abnormally low scales of wages and dearness allowance and the fact that some of the banks had felt the necessity, after introducing the scales of pay, etc., awarded by Mr. B. B. Singh in the United Provinces, of again raising the said scales, etc., it appeared to the Tribunal that at least some minimal scales of pay and dearness alowance should be fixed pending our final award. Accodingly the following minimal scales of pay and dearness allowances were laid down:—

	Pay		Dearness Allowance	
	Clerks	Subordinate staff.	Clerks	Subordinate staff.
	Rs.	Rs.	Rs.	Rs.
'A' Class Banks	60	25	30	25
'B' Class Banks	60	25	25	20
'C' Class Banks	55	22	25	18

From this award were excluded the banks which were members of the Displaced Banks Association and the banks named in Group 'D' of the scheduled

1. Ministry of Labour's Notification No. LR-2(243)/I, dated the 15th November 1949, published in the *Gazette of India*, Extraordinary, dated the 17th November 1949, pp. 2285—2288.

banks and the non-scheduled banks in Schedule I to the Notification of the 13th June 1949.

The demands for interim relief from employees of banking companies in the State of Bihar formed the subject matter of the next award [1]. The Tribunal came to the conclusion that there was no great urgency in the demand. It was, however, found that certain banks had been paying abnormally low scales of pay and dearness allowance, and the Tribunal directed the payment of the following minimal scales of pay and dearness allowance :—

	Pay		Dearness Allowance	
	Clerks	Subordinate staff.	Clerks	Subordinate staff.
	Rs.	Rs.	Rs.	Rs.
'A' Class Banks	60	25	25	20
'B' Class Banks	57	23	25	18
'C' Class Banks	55	20	20	15

The question of interim relief for employees of Banking Companies in the State of Bombay was next taken up [2]. The Tribunal refused to judge of the correctness or adequacy of Divatia J's Award, assuming so far as the inquiry in question was concerned, that he had taken into account all the relevant circumstances and that his Award had been properly made.

The Tribunal found that the increase in the cost of living at Bombay and Ahmedabad since the dates of Divatia J's Award regarding these places had not been such as to call for interim relief being awarded. As regards the banks situated in other places the following directives were given : "Out of the total of the pay and allowances now being paid, three-fourths of the pay awarded by Divatia J., should first be deducted as his legitimate pay, the balance, if any, being treated as the true dearness allowance now being paid ; and that where such dearness allowance is less than what we may call his legitimate dearness allowance, *i.e.*, what a workman would get as dearness allowance on the basis of his legitimate pay if Divatia J's Award for the Bombay Banks were applied the differences between the true dearness allowance and the legitimate dearness allowance shall be paid as interim relief. Where the total of the pay and allowances now being paid is less than three-fourths of the pay awarded by Divatia J., the dearness allowance to which the workman in question would be entitled under the said Award on the basis of his legitimate pay should be paid as interim relief. The calculation of the three-fourths shall be made to the nearest half-rupee." The non-scheduled banks were excluded from the operation of this award. By an award, dated the 21st February 1950, the scope of the interim relief award for the State of Bombay was extended to all the branches of the Bombay Circle of the Imperial Bank of India.

The next award as to interim relief concerned the State of West Bengal [3]. After due consideration of the rise in the cost of living since August 1947 in the State and other circumstances, the Tribunal awarded interim relief on the following lines :

1. Ministry of Labour's Notification No. LR-2(243)/II, dated the 15th November 1949, published in the *Gazette of India*, Extraordinary, November 17, 1949, pp. 2289—2291.

2. Ministry of Labour's Notification No. LR-2(243)/II, dated the 15th November 1949, published in the *Gazette of India*, Extraordinary, November 17, 1949, pp. 2291—2294.

3. Ministry of Labour's Notification No. LR-2(258)/III, dated the 26th December 1949, published in the *Gazette of India*, Part I—Section1, dated the 31st December 1949, pp. 1785—90.

1. *Imperial Bank of India (Bengal Circle).*—I. For the workmen of the Imperial Bank of India residing or working in Calcutta, Delhi or Kanpur the direction as to dearness allowance made by Mr. Chakravarty in his award was altered in the following respects:—

(*a*) In the case of members of the clerical staff, the minimum dearness allowance was raised from Rs. 50 to Rs. 55 per mensem; and in the case of the members of subordinate staff the minimum dearness allowance was raised from Rs. 25 to Rs. 30 per mensem.

(*b*) The following monthly scales of House Rent allowance was awarded to the clerical and subordinate staff where they were not provided with adequate living accommodation.

Clerical:

	Calcutta	Delhi	Kanpur
	Rs.	Rs.	Rs.
(*a*) Where basic pay does not exceed Rs. 100	10	8	6
(*b*) Where basic pay exceeds Rs. 100 but not Rs. 200 ..	15	12	9
(*c*) Where pay exceeds Rs. 200	7½ per cent of basic pay	6¼ per cent	5 per cent.
Subordinate staff	7/8	6/8	5

In the case of the employees of the branches of the Imperial Bank of India (Bengal Circle) except Calcutta, Delhi and Kanpur the awards of Messrs. Gupta and Chakravarty were made applicable. No interim relief was granted to the employees of the Exchange Banks which were following the Bengal Chamber of Commerce Scheme regarding dearness allowance.

II. *Central Bank of India, Bank of India and all Exchange Banks which did not follow Bengal Chamber of Commerce scheme regarding dearness allowance.*—(*a*) For the members of the clerical staff of the banks in this group dearness allowance was fixed at 40 per cent of the basic pay with a minimum of Rs. 40 whereas members of the subordinate staff were awarded to be paid at a flat rate of Rs. 30 per month.

(*b*) The following monthly scales of House Rent Allowance were also awarded to the members of the clerical and subordinate staff:—

Clerical Staff at Calcutta—

Grade	House Rent Allowance.
Pay not exceeding Rs. 100	Rs. 15
Pay exceeding Rs. 100 but not more than Rs. 200	Rs. 20
Pay exceeding Rs. 200	10 per cent of the pay
Subordinate Staff at Calcutta .. .. (not provided with adequate living accommodation)	Rs. 7/8 flat

III. As regards the workmen of the banks in Group 'B' (except the Indian Bank, Ltd.) the directions given were that the total emoluments should not be less than those payable under the Allahabad Bank award[1], the difference between the total emoluments being earned and those awarded by the adjudicator in the said award, if the latter be greater, being the interim relief granted.

1. *Calcutta Gazette*, Part I, dated April 7, 1949, p. 583.

IV. As regards the workmen of eight Banking Companies in Group 'C' who had asked for interim relief, the Tribunal directed that (with the exception of the Comilla Banking Corporation, Ltd., which had entered into an agreement with its employees) their emoluments should not be less than those awarded by Mr. P. R. Mukherjee for the Calcutta employees of the Hindustan Commercial Bank, Ltd.,[1] the difference between the total emoluments being earned and those awarded by Mr. Mukherjee, if the latter be greater, being the interim relief given. For the workmen of other banks who had not claimed any relief the Tribunal fixed certain minimal scales of pay and dearness allowance as follows :—

Pay		Dearness allowance	
Clerks	Subordinate staff	Clerks	Subordinate staff
Rs. 55	Rs. 22	Rs. 25	Rs. 18

As in the case of the awards relating to interim relief for the States of Delhi and Punjab and Bihar, the members of the Displaced Banks' Association and the banks named in Group 'D' of the scheduled banks and the non-scheduled banks in Schedule I to the Government Order, dated the 13th June 1949 were exempted from the operation of the said award.

In a subsequent award, dated the 16th June 1950, which was necessitated by a mistake in the above award, the Tribunal directed, in respect of workmen of the branches of the Bank of India in West Bengal, that with effect from the 1st June 1950, the house rent allowance payable to a clerk by the said bank shall be so adjusted that his total emoluments shall not exceed the greater of the following two, namely, the total emoluments payable to clerks in the Central Bank of India with similar years of service and the total emoluments he would have received if the interim award of 31st December 1949 had not been in force.

The last award[2] as to interim relief concerned the State of Madras. The following observation was made regarding the number of consumption units a new entrant might be presumed to maintain : "A new entrant, particularly in those times, is rarely burdened with a family at the date of his joining service and the contingency of his having a dependent or two would, in our opinion, be sufficiently met by presuming that such a person has to bear the expenditure of two consumption units." As regards the banks in Group 'A' in the Government Order, dated the 13th June 1949, the following directions were given : "The total of pay and dearness allowance (in whichever manner it may be apportioned between them) of a workman of a Bank in Group 'A' should not be less than the total of the pay and dearness allowance resulting from the Awards made by Messrs. R. Gupta and S. C. Chakravarty in the case of the Imperial Bank of India reduced by 16 2/3 per cent. If any such workmen should now be getting more emoluments than those directed to be paid by us he should continue to get them."

With regards to banks in Group 'B' the Tribunal directed that the award relating to the Allahabad Bank made in West Bengal (treated by us as the standard for the purpose of interim relief in the cases of such banks in that province) should similarly be followed with a deduction of 12½ per cent. As regards banks in Group 'C' it was thought sufficient to lay down only the

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2. *Calcutta Gazette*, August 8, 1948.

1. Ministry of Labour's Notification No. LR-2(258)/III, dated the 26th December 1949, published in the *Gazette of India*, Part I—Section 1, dated December 31, 1949, pp. 1790—1793.

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minimal scale of pay; and accordingly, for the banks situated in the City of Madras the following minimal scales were laid down:—

	Pay		Dearness Allowance	
	Clerks	Subordinate staff.	Clerks	Subordinate staff.
	Rs.	Rs.	Rs.	Rs.
'C' Class Banks	55	20	25	18

In respect of banks situated in places outside the City of Madras, the following minimal scales were laid down:—

	Pay		Dearness Allowance	
	Clerks	Subordinate staff.	Clerks	Subordinate staff.
	Rs.	Rs.	Rs.	Rs.
'C' Class Banks	55	20	20	15

The banks named in Group 'D' of the scheduled banks and the non-scheduled banks in Schedule I to the Government Order of the 13th June 1949 were excluded from the operation of the award.

By a subsquent award made in terms of an agreement, dated the 21st February 1950, between the Indian Bank, Ltd., Madras and its workmen, *gollas*, bill collectors and pass book writers of the said bank were placed in the same category of jetty clearing sircars of the Allahabad Bank for the purposes of interim relief.

The question whether this Tribunal had jurisdiction over a bank or a branch thereof situated in a State which had acceded to India but had not been merged therein was discussed at Bangalore. The Tribunal's conclusions on this question were that the Tribunal had jurisdiction over banks or branches thereof situated in India, as they were situated within the limits of "all the provinces of India" [section 1(2) of the Industrial Disputes Act, 1947] where the banking company concerned transacted the business of banking. "The banking company, even if its head office may be situated in a State where we have no jurisdiction, must be deemed to be physically present and to transact business, in such a case, at places within the limits of the Indian provinces and must, therefore, in so far be subject to our jurisdiction."

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APPENDIX IV

(1)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

New Delhi, the 3rd December 1949

NOTIFICATION

No. LR. 2 (245).—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Goverment is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely :—

Industrial Tribunal (Procedure) Rules.

1. These rules may be called the Industrial Tribunal (Procedure) Rules 1949.
2. The Industrial Tribunal constituted under the Ministry of Labour Notification No. LR. 2(205), dated the 13th June 1949, may entrust such cases or matters referred to as it deems fit to one or more members for enquiry and report.
3. The report under rule 2 shall be submitted to the Chairman of the Tribunal. The Tribunal may withdraw any case or matter referred to one or more members under rule 2 and transfer the same to any other member or members.
4. The Tribunal shall, after considering the report and making such further enquiry as it deems fit, deliver its award.
5. For the purpose of making an inquiry under these rules, the member or members, as the case may be, shall have all the powers of the Tribunal under section 11 and the provisions of rules 14 to 21, 24, 30 and 31 shall apply to such enquiry as if the member or members were the Tribunal.

K. N. SUBRAMANIAN,
Joint Secretary to the Government of India.

(Vide *Gazette of India*, Extraordinary, dated December 3rd, 1949, p. 2633).

(2)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

New Delhi, the 6th March 1950

NOTIFICATION

No. LR. 1 (108).—In exercise of the powers conferred by section 38 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government is pleased

to direct that the following further amendment shall be made in the Industrial Dispute (Central) Rules, 1947, the same having been previously published as required by sub-section (1) of the said section, namely :—

Amendment.

After Rule 21, the following rule shall be inserted, namely :—

"21-A. *Power of Tribunals to award costs.*—The costs of, and incidental to, any proceeding before a Tribunal shall be in the discretion of that Tribunal, and the Tribunal shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purpose aforesaid."

S. C. AGGARWAL,
Deputy Secretary to the Government of India.

(Vide *Gazette of India*, Extraordinary, dated March 7, 1950, p. 1049.)

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APPENDIX V

LIST OF PERSONS WHO APPEARED BEFORE THE TRIBUNAL AT BOMBAY DURING THE COURSE OF THE MAIN ADJUDICATION PROCEEDINGS ON BEHALF OF BANKS AND THEIR WOKMEN.

BANKS

1. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Allahabad Bank, Ltd.
2. Mr. N. C. Acharya, Advocate, for the Andhara Bank, Ltd.
3. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the American Express Co. Inc.
4. Mr. B. K. Daphtary of Messrs. Daphtary Ferreira & Divan, Solicitors, for the Bank of Baroda, Ltd.
5. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Bank of Behar, Ltd. and the Bank of Bikaner, Ltd.
6. Sir Jamshedji B. Kanga and Shri R. J. Kolah instructed by Messrs. Ardesir Hormusji Dinshaw & Co., Solicitors, for the Bank of India, Ltd.
7. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Bank of Jaipur, Ltd., the Bank of Maharashtra, Ltd. and the Bank of Mysore, Ltd.
8. Mr. F. B. Gadgil, Advocate, instructed by Mr. K. B. Gupta, General Manager of the Laxmi Bank, Ltd., for the Bank of Nagpur, Ltd.
9. Mr. Brij Nath, General Manager, for the Banaras State Bank, Ltd.
10. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Bengal Central Bank, Ltd.
11. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, instructed by Mr. R. N. Rastogi, Estt. Supdt. for the Bharat Bank, Ltd.
12. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Canara Banking Corporation, Ltd.
13. Mr. R. K. Agashe, Manager, Bombay Branch, for the Canara Industrial and Banking Syndicate, Ltd.
14. Sir Jamshedji B. Kanga and Shri R. J. Kolah with Mr. H. C. Captain, Managing Director, for the Central Bank of India, Ltd.
15. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Chartered Bank of India, Australia and China.
16. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Comilla Banking Corporation, Ltd., the Comilla Union Bank, Ltd., and the Devkaran Nanjee Banking Co., Ltd.
17. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Eastern Bank, Ltd. and the Comptoir National D'Escompete de Paris.
18. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, Traders' Bank, Ltd., Bombay, for the First National Bank, Ltd.

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19. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Grindlays Bank, Ltd.

20. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Habib Bank, Ltd., the Hind Bank, Ltd., the Hindustan Commercial Bank, Ltd., and the Hindustan Mercantile Bank, Ltd.

21. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs Craigie Blunt & Caroe, Solicitors, for the Hongkong & Shanghai Banking Corporation.

22. Mr. S. S. Padbidri for the Hyderabad State Bank, Ltd.

23. Sir Jamshedji B. Kanga with Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Imperial Bank of India.

24. Mr. B. Lakkappa Rai, Advocate, for the Indian Bank, Ltd.

25. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Indian Overseas Bank, Ltd., and the Jodhpur Commercial Bank, Ltd.

26. Mr. R. B. Gadgil, Advocate, instructed by Mr. K. B. Gupta, General Manager, for the Laxmi Bank, Ltd.

27. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, Traders' Bank, Ltd., Bombay, for the Laxmi Commercial Bank, Ltd.

28. Mr. A. C. Beynon with Mr. V. A. daSilva of Messrs. Craigie Blunt & Caroe, Solicitors, for the Lloyds Banks, Ltd.

29. Mr. R. K. Agashe, Manager, Bombay Branch of the Canara Industrial and Banking Syndicate, Ltd., for the Maharashtra Apex Bank, Ltd.

30. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Mercantile Bank of India, Ltd.

31. Mr. Sorab D. Vimadalal with Mr. C. H. Martin of Messrs. Little & Co., Solicitors, for the National Bank of India, Ltd.

32. Mr. S. Khambata of Messrs. Wadia Ghandy & Co., Solicitors, for the National City Bank of New York.

33. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the National Savings Bank, Ltd.

34. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, Traders' Bank, Ltd., Bombay, for the New Bank of India, Ltd.

35. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the New Citizen Bank of India, Ltd.

36. Mr. Rustom S. Davar, Advocate, instructed by Messrs, Little & Co., Solicitors, for the Netherlands India Commercial Bank.

37. Mr. A. E. Blair of Messrs. Crawford Bayley & Co., Solicitors, for the Netherlands Trading Society.

38. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, the Traders' Bank, Ltd., Bombay, for the Prabhat Bank, Ltd., and the Punjab & Kashmir Bank, Ltd.

39. Mr. B. N. Singh, Advocate, with Mr. Somesh Chandra Sharma, District Manager, for the Punjab National Bank, Ltd.

40. Mr. R. B. Gadgil, Advocate, instructed by Mr. K. B. Gupta, General Manager of the Laxmi Bank, Ltd., for the Safe Bank, Ltd.

41. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. U. A. Merchant, Manager, for the Traders' Bank, Ltd.

42. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, for the Travancore Bank, Ltd.

43. Mr. V. C. Vaidya of Messrs. Captain & Vaidya, Solicitors, for the Union Bank of India, Ltd.

44. Mr. Tanubhai D. Desai of Messrs. Motichand Devidas & Co., Solicitors, with Mr. B. T. Thakur, General Manager, for the United Commercial Bank, Ltd.

WORKMEN

1. Mr. Dayal Das Khanna, General Secretary, Shri Krishan Gopal Kakar and Mr. Ram Nath Chopra, Joint Secretary, for the Allahabad Bank Employees' Union, Delhi.

2. Mr. D. V. M'Rao, Advocate, instructed by Mr. L. Kameshwara Rao, Secretary, for the Andhra Bank Employees' Union, Masulipatam.

3. Mr. S. N. Misra, President and Mr. Sukumar Ray, Secretary, for the Bank of Baroda Employees' Union, Calcutta.

4. Mr. Ragho Nandan Prasad and Mr. Bageshwari P. Bajpai, for the Bank of Behar, Ltd., Employees' Association, Patna.

5. Mr. P. N. Roy, Secretary, and Mr. P. D. Singh, Joint Secretary, for the Bank of Behar, Ltd., Employees' Union, Calcutta.

6. Mr. Romesh Chandra Chakravarty with Mr. H. Lahiri, General Secretary, for the Bank of India Employees' Union, Calcutta.

7. Mr. N. V. Phadke, Advocate, for the Central Bank of India, Ltd., Employees' Union, Karnatak Group, Bagalkot.

8. Mr. J. G. Adhikari, for the Employees of the Bank of India, Ltd., Jamshedpur.

9. Mr. K. L. Roy, General Secretary, and Mr. P. R. Sen, for Bengal Central Bank Employees' Association, Calcutta.

10. Mr. R. L. Vertuyer, Secretary, for the Bharat Employees' Union, Bihar.

11. Mr. H. L. Parvana, President with Mr. A. S. Chauhan, Secretary, and Mr. O. P. Kalra, for the Bharat Employees' Union, Delhi.

12. Mr. N. M. Roy, for the Bharat Bank, Calcutta, Employees' Association, Calcutta.

13. Mr. J. C. Khanna, General Secretary, and Mr. Kundanlal Sharma, Secretary, for the Central Bank of India Employees' Union, Delhi.

14. Mr. S. Varadarajan, Secretary, for the Central Bank Employees' Union, Mathurai.

15. Shri W. D. Sawant, Mr. C. R. Mankar, for the Elected Representatives of the Employees of the Chartered Bank of India, Australia and China, Bombay.

16. Mr. Niren De instructed by Mr. Gajindra Nath Banerji, Secretary, for the Chartered Bank of India, Australia and China, Local Staff Employees' Union, Calcutta.

17. Mr. Bhajan Lal Khanna, for the Elected Representatives of the Employees of the Chartered Bank of India, Australia and China, Delhi Branch.

18. Mr. Remesh Chandra Chakravarty and Mr. G. N. Trikannad, for the Comilla Union Bank, Nimna Betan Karamchari Sangh, Calcutta.

19. Mr. N. V. Phadke, Advocate, for the Eastern Bank, Ltd., Employees' Union, Bombay Branch, Bombay.

20. Mr. S. R. Ganguly, for the Habib Bank Employees' Union, Calcutta.

21. Mr. Samir Mittra, for the Hind Bank Employees' Union, Calcutta.

22. Mr. Shantilal H. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, Solicitors, with Mr. C. L. Dudhia, instructed by Mr. N. V. Gude, Secretary, for the Imperial Bank of India Indian Staff Association (Bombay Circle), Bombay.

23. Mr. N. V. Phadke, Advocate, with Mr. R. D. Bijoor, General Secretary and Mr. G. S. Aphale, Assistant Secretary, for the Imperial Bank of India Staff Association (Bombay Circle), Poona.

24. Mr. R. D. Bijoor, General Secretary, and Mr. G. S. Aphale, Assistant Secretary, of the Imperial Bank of India Staff Association (Bombay Circle), Poona, for the Imperial Bank of India Staff Union, Surat.

25. Mr. Niren De with Mr. Jyoty Ghose, General Secretary, for the Imperial Bank of India Indian Staff Association (Bengal Circle), Calcutta.

26. Mr. T. S. Ramanujam, President, with Mr. P. S. Chengalvorayan, Secretary, Mr. A. J. Lewis, Secretary, and Mr. Shankara Iyer, Treasurer, for the Imperial Bank of India Indian Staff Union (Madras Circle), Madras.

27. Mr. K. T. Shah and Mr. N. V. Phadke, Advocate, instructed by Mr. R. D. Bijoor, General Secretary, for the Imperial Bank of India Staff Federation, Poona.

28. Mr. T. S. Ramanujam, President, Mr. V. N. Vellaiyan, Vice-President, and Mr. S. Subramanyam, Secretary, for the Indian Bank Employees' Union, Madras.

29. Mr. D. V. M'Rao, Advocate, instructed by Mr. J. P. Sastry, Secretary, for the Indian Bank Sarkars Employees' Union, Sarcars.

30. Mr. T. S. Ramanujam, President, and Mr. G. Nagiah, Secretary, for the Indian Overseas Bank Employees' Union, Madras.

31. Mr. T. S. Ramanujam, President, and Mr. G. Nagiah, General Secretary of the Madras Provincial Union of Bank Employees, Madras, for the Staff of the Indo-Commercial Bank, Ltd., Mathurai.

32. Mr. M. R. Thosar, Pleader, for the Laxmi Bank, Ltd., Staff Association, Akola.

33. Mr. Jugal Kishore Dutt, President, and Mr. Sudhir Ch. Bhan, Secretary, for the Hongkong and Shanghai Banking Corporation (Calcutta Branch), Indian Staff Union, Calcutta.

34. Mr. S. B. DeSilva, Advocate, for the National Bank of India, Ltd., Bombay Branch Clerks' Union, Bombay.

35. Mr. P. L. Ganguli, Vice-President, and Mr. Manoranjan Bhattacharji, Secretary, for the National Bank of India, Ltd., Calcutta, Branch Indian Staff Union, Calcutta.

36. Mr. H. L. Parvana, President, Mr. P. L. Syal, Vice-President, Mr. M. L. D. Sabharwal, Secretary, and Shri H. L. Puri, General Secretary for the Punjab National Bank Employees' Union, Delhi.

37. Mr. Shyam Sundar Talwar, President, and Mr. Dharam Vir Taneja, General Secretary, for the Punjab National Bank Workmen's Union, Delhi.

38. Mr. Vidya Sagar Malhi, Secretary (Administration), and Mr. Girdhari Lal Kakar, General Secretary, for the Punjab National Bank Employees' Union, Ludhiana.

39. Mr. S. B. Sanyal, Secretary, and Mr. S. K. Bhowmik, for the Punjab National Bank Employees' Union, Calcutta.

40. Mr. J. S. Wadkadia, elected representative, for the Staff of the Bombay Branch of the National City Bank of New York.

41. Mr. A. K. Sen, General Secretary, and Mr. A. Saha, for the United Commercial Bank Employees' Association, Calcutta.

42. Mr. Shantilal M. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, with Mr. C. L. Dudhia, instructed by Mr. Kanchanlal V. Paraikh, Secretary, for the Ahmedabad Bank Employees' Union, Ahmedabad.

43. Mr. Jyoty Ghose, and Mr. R. C. Chakravarty, for the All-India Bank Employees' Association, Calcutta.

44. Mr. N. V. Phadke, Advocate, with Mr. S. S. Dighe, Advocate, instructed by Mr. G. N. Trikannad, General Secretary, for the Federation of Bank Employees, Bombay.

45. Mr. T. S. Ramanujam, President, and Mr. G. Nagiah, General Secretary, for the Madras Provincial Union of Bank Employees, Madras.

46. Mr. Shantilal H. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, Solicitors, with Mr. C. L. Dudhia, instructed by Mr. Ratilal A. Bhatt, General Secretary, for the Surat Bank Employees' Union, Surat.

47. Mr. J. N. Mehrotra, Provincial General Secretary, Mr. A. C. Kakar and Mr. B. K. Porwal, Provincial Joint Secretaries, and 18 others for the U.P. Bank Employees' Union, Kanpur and for Hindustan Commercial Bank Employees' Union, East Punjab.

48. Mr. Shantilal H. Shah of Messrs. Bhaishankar, Kanga and Girdharlal, Solicitors, with Mr. C. L. Dudhia, instructed by Mr. Chandrakant T. Sheth, General Secretary, for the Vedodra Rajya Bank Nokar Sangh, Baroda.

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APPENDIX VI

Model Provident Fund Rules for Industrial Employees

1. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context—

(1) "Board" means, the Board of Trustees constituted under rule 2;

(2) "children" means legitimate children and step-chidren, but includes adopted children only if the Board is satisfied that under the personal law of the subscriber, adoption is legally recognised as conferring the status of a natural child;

(3) "emoluments" means pay in cash drawn monthly by an employee including any wages paid to employee not remunerated by fixed monthly pay but does not include any overtime allowances, any dearness allowance, or bonuses;

Provided that the monthly emoluments of an employee paid at daily rates shall be deemed to be 24/25/26 times his daily rate of wages admissible to him for the first normal working day of the month;

(4) "family" means—

(*a*) in the case of a male subscriber, the wife, or wives and children of the subscriber, and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customary law of the community to which she belongs to be entitled to maintenance, she shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently indicates by express intimation in writing to the Board that she shall continue to be so regarded;

(*b*) in the case of a female subscriber, the husband and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if subscriber by intimation in writing to the Board expresses her desire to exclude her husband from the family, the husband shall henceforth be deemed to be no longer a member of the subscriber's family unless the subscriber subsequently cancels formally in writing her intimation excluding him:

Provided further that, in either case, if the child of a subscriber has been adopted by another person and if, under the personal law of the adopter, adoption is legally recognised as conferring the status of a natural child, such a child shall be considered as excluded from the family of the subscriber;

"Fund" means the Provident Fund in force in;

(6) "Subscriber" means an employee who is required under these rules or is permitted by the employer to subscribe to the Fund.

2. *Constitution and Management of the Fund.*—(1) The Fund shall be administered by a Board of Trustees formed with an equal number of representatives of the employer and the subscribers. The total strength of the Board shall not exceed ten.

(2) The Board shall elect its own President, and he shall exercise his individual vote on any question under discussion in the Board but shall not have the right to a casting vote.

(3) The employer shall have the right to appoint a substitute if during the course of the working year of the Board a vacancy occurs among the representatives nominated by him.

(4) The subscribers shall have the right to elect a substitute for any of their representatives who resigns from the Board or ceases to be a subscriber during the term of office of the Board.

(5) The term of office of each Board of Trustees shall be one year from the date of its constitution.

(6) The subscribers shall elect their representatives to the Board each year at a general meeting held specifically for the purpose and the employer shall nominate his representatives as soon as possible thereafter.

(7) The Board shall elect or appoint its own Secretary, and he shall keep a record of the decisions of the Board and the accounts of the Fund. He shall also be responsible for keeping the records of the Board.

(8) Out of the moneys received from time to time the Board may keep in an account or accounts in any Bank or Banks a sum not exceeding Rupees.... The Board may authorise its Secretary to operate on the Bank account up to a sum not exceeding Rupees.....

(9) The annual general meeting of the subscribers shall ordinarily be held in the month of.....each year.

(10) The Board shall meet at least once a quarter, and one half of the total membership shall form a quorum.

(11) The accounts of the Fund shall be audited by an Auditor appointed annually by the Board for the purpose. The Auditor's report on the accounts shall be made available to the subscribers and to the employer.

3. (1) *Compulsory Subscribers.*—Every non-pensionable employee who has worked for not less than 200 days in a year or 300 days during two years and whose monthly emoluments are not less than Rs. 25 shall subscribe to the Fund in accordance with these rules.

(2) *Optional Subscribers.*—An employee whose monthly emoluments are less than Rs. 25 and who has worked for not less than 200 days during a year or for 300 days during 2 years may also subscribe to the Fund in accordance with the rules, if so permitted by the employer.

4. *Nomination.*—(1) The Board shall require every subscriber to make a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death ocurring before the amount standing to his credit has become payable.

Provided that a subscriber may modify a nomination once made after giving written notice of his intention of doing so.

(2) Nomination shall save as hereinafter provided be in favour of one or more members of the subscriber's family and shall be made in the appended form. If a subscriber nominates more nominees than one, he may apportion the amount that may stand to his credit in the Fund amongst his nominees at his own discretion. If, at the time of making the nomination, the subscriber has no family, the nomination may be in favour of any other person or persons,

but if the subscriber subsequently acquires a family, such nomination shall forthwith stand cancelled.

5. *Subscriber's Account.*—(1) An account shall be opened in the name of each subscriber in which shall be credited :—

(*i*) the subscriber's subscription ;
(*ii*) the contribution made by the employer to the subscriber's account ;
(*iii*) the interest on the total moneys in the subscriber's account.

(2) Each subscriber shall be given a pass book in which shall be entered every month, the credits referred to in sub-rule (1) and also the advances, if any, taken and the repayments made, by him.

6. *Conditions and Rates of Subscription.*—(1) Every subscriber shall subscribe monthly to the Fund when on duty. The peyment of subscription during leave shall be optional, and no subscription shall be recovered when the subscriber is on leave without pay.

(2) The amount of subscription shall be fixed by the subscriber himself and it may be any sum not less than 3 1/8 per cent (*i.e.*, a half anna in the rupee) of his emoluments and more than 8 1/3 per cent (*i.e.*, one anna and four pies in the rupee). The amount shall be rounded to the nearest anna.

(3) A subscriber may alter his rate of subscription with effect from the beginning of any year, financial or otherwise, which may be followed by the employer for the purpose of his accounts provided that he gives notice of the change to the employer before the end of the preceding year.

7. *Realisation of Subscriptions.*—The subscription due from each subscriber shall be realized by monthly deductions from his emoluments.

8. *Contribution by the Employer.*—The employer shall make a monthly contribution to the account of each subscriber equal to the amount subscribed by the subscriber himself, and such contribution shall be credited to the Fund not later than the fifteenth of the month in which the subscriber's subscription is deducted from his emoluments.

9. *Interest.*—Interest earned on the moneys of the Fund invested under rule 13 shall be credited to the accounts of the individual subscriber *pro rata.*

10. *Advances from the Fund and their Repayment.*—(1) A temporary advance may be granted to a subscriber from the amount standing to his credit in the Fund at the discretion of the Board, subject to the following conditions :—

(*a*) No advance may be granted unless the Board is satisfied that the applicant's pecuniary circumstances justify it and that the amount advanced will be expended on either or both of the following objects :—

(*i*) to pay expenses incurred in connection with the prolonged illness of the subscriber or any person actually dependent on him ;
(*ii*) to pay obligatory expenses on a scale appropriate to the subscriber's status in connection with marriages, funerals or ceremonies which by his religion it is incumbent on him to perform.

(*b*) An advance shall not ordinarily exceed three months emoluments and shall not exceed

(*i*) if made for the object specified in sub-clause (*i*) of clause (*a*) the amount of subscriptions and interest thereon standing to the credit of the subscriber in the Fund ; and

(*ii*) if made for any of the objects specified in sub-clause (*ii*) of clause (*a*) half such amount.

(*c*) A second or subsequent advance shall not be granted until at least 3/6 months have lapsed since the complete repayment of a previous advance together with interest.

(2) An advance shall be recovered from the subscriber in such number of equal monthly instalments as the Board may direct; but such number shall not be less than 12, nor more than 24. A subscriber may at his option make repayment in a smaller number of instalments than the number directed.

(3) Recovery shall be made in the manner provided by rule 7 for the realisation of subscriptions and shall commence on the occasion, after the advance is made, on which the subscriber receives not less than 75 per cent of his normal emoluments. Recovery shall not be made, except with the suscriber's consent while he is on leave.

(4) After the principal of the advance has been fully repaid, interest shall be paid thereon at such rate as may be prescribed by the Board from time to time.

(5) Interst shall be recovered in one or two instalments in the month or months immediately following the repayment of the principal.

(6) Recoveries of advances and the interest thereon shall be credited as they are made to the account of the subscriber in the Fund.

11. *Circumstances in which accumulations are payable.*—(1) If a subscriber dies or for other reasons ceases to be a subscriber, the amount standing to his credit in the Fund, including interest up to date shall become payable to him or his nominee, subject to any deduction authorised under rule 12.

(2) No claim shall be entertainable against the Fund if made more than three years after the date on which the amount due became payable.

(3) Any amount due from the Fund shall cease to bear interest after three months from the date on which the amount became payable.

(4) Payments under sub-rule (1) to the employee or his nominees in the event of his death, shall be made within one month of the date on which they fall due. In the case of the death of an employee who has no subsisting nomination it shall be competent for the Board to pay the amount due to the natural heir or heirs of the deceased employee provided the Boards is satisfied as to the heirship of the claimant or claimants.

12. *Deductions.*—(1) Subject to the provisions of sub-rule (2) no deduction shall be made from the amount standing to the credit of a subcriber when final payment is made to him or his nominees under rule 11.

(2) If any subscriber is dismissed from service for serious misconduct or resigns or leaves his employment at his own request otherwise than on medical grounds, or if any voluntary subcriber while remaining in his employment discontinues his subscriptions to the Fund, the Board may direct that deductions shall be made from the amount paid into the subscriber's account by the employer under rule 8 (including interest in accordance with the following scale):—

(*a*)	Subscribers of less than 3 years standing ..	100 per cent.
(*b*)	Subscribers of 3 but less than 6 years standing	50 per cent.
(*c*)	Subscribers of 6 but less than 9 years standing	25 per cent.
(*d*)	subscribers of 9 or more years standing ..	Nil.

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13. *Investment.*—The moneys of the Fund not immediately required for the purposes of the Fund and held in a Bank account shall be invested by the Board in any securities for the time being authorised under the Indian Income-tax Act, 1922 and the Indian Trusts Act, 1882 and the rules made thereunder in respect of the investment of moneys of a Provident Fund recognised under the Indian Income-tax Act, 1922. Such investment shall be made in the name of the Board and may when the conditions of investment permit be made payable or transferable to the order of any two members of the Board.

14. *Reference of disputed cases to a Referee.*—(1) The decision of the Board shall be final and binding upon the subscribers and the employer in all matters relating to the Fund, and in the event of the Board being equally divided in its opinion on any dispute between the employer and a subscriber or his nominees in the event of his death, the dispute shall be submitted for decision to a referee agreed upon by the Board.

(2) In the event of the Board not agreeing upon a referee, the dispute shall be referred to an authority nominated for this purpose, by a general or special order by the Provincial Government* and the decision of such authority will be final. The fees and expenses of a referee agreed upon by the Board or of the authority to whom the dispute is referred shall be defrayed out of the Fund.

15. *Closure of the Fund.*—Before the closing of the Fund, all amounts due and all assets shall be realised and all liabilities shall be liquidated. All accumulations due to members shall be paid and the surplus, if any, shall be paid to members of the Fund at the date of closing in proportion to the amount standing to the credit of each member.

FORM OF NOMINATION

I hereby direct that the amount at my credit in the Provident Fund at the time of my death shall be distributed among the persons mentioned below in the manner shown against their names :—

Name and address of the nominee or nominees	Relationship of each nominee with the subscriber	Age of each nominee	Amount or share of accumulations
(1)	(2)	(3)	(4)

NOTE.—Column (4) shall be filled in so as to cover the whole amount at credit.

*An employer intending to adopt this sub-rule will have to obtain Provincial Government's permission.

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APPENDIX VII

MEMORANDUM OF THE HEAD OFFICE OF THE NATIONAL CITY BANK OF NEW YORK SUGGESTING METHOD OF ADJUSTING RETIREMENT BENEFITS IN THE CASE OF BANKS PAYING HIGH SALARIES, DEARNESS ALLOWANCES, ETC.

There has recently developed in the United States a form of Union demand known as the "package". The employer agrees to contribute so many cents per hour of work (or percentage of each employee's salary) to be spent for employee welfare, including retirement benefits, hospitalization, group life insurance, and other so-called "fringe" benefits. By adopting a "package" solution the Tribunal could act with advanced statesmanship because such a solution would render substantial and equal justice to all bank employees, no matter in which bank they work and place no inequitable burden upon any bank.

The "package" principle, applied to the issues now before the Tribunal, might well include the following:—

(1) Establish a scale of basic salaries in the manner of Mr. Justice Divatia's Award of April 1947.

(2) Base Dearness allowance on a fixed percentage of the basic salary established by the Award.

(3) Fix minimum Provident Fund contributions at a prescribed per cent say 5 per cent or 6 per cent of the established basic salary to be made equally by the Bank and the employees.

(4) Consolidate the several kinds of leave into one category called "Annual Leave" of which one month per calendar year will be at full salary and Dearness Allowances. New employees to be entitled to two weeks leave after one year of service; three weeks after two years of service; and full four weeks after three years of service.

(5) Order that there shall be established by each Bank a "Retirement Benefit Account" in the name of each employee.

(6) The Bank to charge against each employee's Retirement Benefit Account the following:—

(*a*) That part of the salary paid which is in excess of the minimum basic salary applicable to the employee according to the length of his service under Divatia Award from the date it came into force and under the Award of the Tribunal from the date it comes into operation.

(*b*) That part of the Dearness Allowance paid which is in excess of the minimum required to be paid under Divatia Award from the date it came into force and under the Award of the Tribunal from the date it comes into operation.

(*c*) That part of the Bank's contribution made by the Bank to the Provident Fund which is in excess of the prescribed percentage under Divatia Award from the date it came into force and under the Award of the Tribunal from the date it comes into operation.

(*d*) The amount of salary paid for the period of absence in excess of one month per calendar year (or less for new employees. See No. 4 above).

(e) That part of the bonus, if any, paid which is in excess of what would have been paid on the basis of minimum basic salary applicable to the employee under the Award of the Tribunal.

(7) The Bank to credit the Retirement Benefit Account with the amount of gratuity (or consolidated amount of pension as the case may be) payable to the employee according to the provisions of the Award on the basis of minimum basic salary applicable to the employee at the date of his retirement.

(8) The net balance in the Retirement Benefit Account to be paid to the employee in Cash at the end of his service.

If for any reason an over-all Retirement Benefit Account formula seems impractical, the Tribunal might undertake to accomplish a similar result by providing that any salary payment, Dearness Allowance, or Provident Fund Contribution in excess of the minimum required by the Award may be offset against any other monetary benefit provided in the Award. This would be an almost necessary provision in case the Tribunal should order any mandatory bonus or other new category of payments.

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APPENDIX VIII

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(i) Jalgaon
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APPENDIX IX

AWARDS

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APPENDIX IX

(1)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 9th December 1949

No. LR-2(251)/I.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes), in the matter of alleged victimization, retrenchment, dismissals, etc., in respect of banking companies in the Province of Madras :—

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

(1) The Imperial Bank of India,
(2) The Indian Overseas Bank, Ltd.,
(3) Eastern Bank, Ltd.,
(4) National Bank of India, Ltd.,

AND

Their Workmen.

In the matter of alleged victimization, retrenchment, dismissal, etc., at Madras and other places in the Madras Province

Present :—

Mr. K. C. Sen, *Chairman,*
Mr. J. N. Majumdar, *Member,*
Mr. N. Chandrasekhara Aiyar, *Member.*

Appearances :—

Mr. H. M. Small and Mr. L. D. Miller, instructed by Messrs. King and Partridge, Solicitors, for the Imperial Bank of India, Eastern Bank and the National Bank of India, Ltd.

Mr. V. C. Gopalratnam, Advocate, for the Indian Overseas Bank, Ltd.

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Mr. T. S. Ramanujam and Mr. B. Chengalvaroyan, for the Imperial Bank Indian Staff Union.

Mr. R. Venkatram and Mr. R. Dandapani, for the Indian Staff Union of the National Bank of India.

Mr. S. C. C. Antony Pillai, for the employees of the Indian Overseas Bank.

Mr. K. S. Shetty, for P. Kuppuswami.

AWARD

In the course of the Tribunal's inquiry at Madras four cases of alleged victimization were brought to its notice. Three of them relate to the Imperial Bank and the fourth to the Indian Overseas Bank. We shall now deal with them seriatim.

2. *R. Subbarayalu.*—He was a messenger in the Mount Road branch of the Imperial Bank of India, Madras, with a service of about 9 years to his credit. His services were dispensed with on 24th November 1948 as "no longer required" and he was given salary for the rest of the month as well as one month's salary in lieu of notice. The complaint is that no reasons were given for this termination. This, however, is not correct. There is a memorandum, dated 21st July 1947 which was communicated to him in which he was described as a "lazy, untidy and poor worker." On 13th August 1947 he got a second warning in these terms: "Messenger R. Subbarayulu is informed that he has been reported to be often very disobedient and inattentive to his work. He also absented on 9th August 1947 without obtaining previous sanction. His attention is drawn to previous letter of warning, dated 21st July 1947. Unless satisfactory improvement is shown, further steps will be taken." On 11th November 1948, he applied for leave for the next day stating that he had to bring his mother from a mofussil station. The Agent refused the leave and asked him to avail himself of the next two days 13th and 14th November, which were Bank Holidays. Subbarayulu took up the leave application with the Agent's remark 'no' written on it and tore it to bits in a constituent's presence. As punishment for tearing up an official record the Agent gave him turn duty on the 12th November and morning duty on the 13th, but he refused to sign the duty book. Thereupon the Agent reported the matter to the higher authorities. The case was placed before the Local Board of the Bank and Subbarayulu's services were dispensed with.

3. In the circumstances the non-mention of the reasons in the order of discharge does not appear to us to be very material and the fact that a formal charge was not framed against him and his explanation not taken cannot be said to be sufficient grounds calling for our interference. We would, however, remark that it is an elementary principle that before an employee's services are dispensed with, a formal written charge should be given to him and that he should be given a reasonable opportunity to explain his alleged misconduct. We give no direction in this case.

4. *M. Easaw.*—His grievance is that he was transferred without proper ground from the Cochin Branch of the Imperial Bank to the Pollachi Branch on the 4th May 1949. He asked for leave and when this was refused owing to shortage of clerks he absented himself without permission. The Cochin branch agent suspended him and recommended his dismissal. The Head Office, however, set aside the suspension order but transferred him. He has no case

for complaint when he was thus leniently treated. Anyhow, as it appeared to us that he had been taught a sufficient lesson by this transfer and that he might now be allowed to go back to the Cochin Branch, we suggested this to Mr. Small who appeared for the Imperial Bank and he stated, after consulting his clients, that Easaw would be transferred back to Cochin at the earliest available opportunity. In view of this statement no directions from us are necessary in this case.

G. Satahi Patihi Rao (Guntur Branch of the Imperial Bank of India):—

5. He was absent at the hearing. He had service for 21 months to his credit and was drawing a salary of Rs. 74 per mensem, when his services were dispensed with on 19th April 1948 on payment of a month's salary in lieu of notice. He had been granted nine days of ordinary leave and was to have rejoined duty on the expiry of this period. But he did not do so and applied by letter for a month's leave "on loss of pay" (*i.e.*, without pay) for private domestic reasons. The leave was not sanctioned and the agent of the Bank at Ellore wherefrom the leave application was sent was asked by telephone by the Guntur agent to inform the clerk that he must rejoin duty on the due date. We are told by the Ellore agent that he did send word to the clerk and advised him not to take leave but that the clerk did not heed the advice and stayed away. The report of Mr. Savoor, Agent of the Guntur Branch to the Secretary and Treasurer of the Imperial Bank, Madras, is to be found in his letter, dated the 15th April 1948 where reference is made to a previous occasion when after taking one day's leave this particular clerk had absented himself for over a month on the ground of his mother's illness and his own illness and when he had been reprimanded for absence from duty.

6. The conduct of the clerk was certainly objectionable but in view of the fact that in this case also no formal charge was drawn up nor was an opportunity given to him to give an explanation and the further fact that the Ellore agent appears to have reported that the ground of illness of his mother for which the leave was wanted was true, we felt, and we gave expression to our feeling, that this was a case which deserved a more sympathetic consideration than has been given by the management. The Imperial Bank has assured us through Mr. Small that his case will be reconsidered in the light of the opinion that we have formed in this case. In view of this assurance we think it necessary to give any directions regarding Mr. G. Satahi Pathi Rao.

7. *P. Kuppuswami.*—He was an attender with three year's service in the Indian Overseas Bank and he was suspended for one week for refusal to obey a call from the agent while working in the office. He wants his salary for this period to be paid to him. It is obvious that the order of suspension was necessitated in the interest of discipline and cannot be said to be an unjust or improper order. If so, the question of salary can hardly be said to arise, and Mr. V. C. Gopalratnam, who appeared for the Bank stated that if the attender withdrew the charge of victimization, the Bank would consider the payment of the salary for the period in question. Mr. K. S. Shetty who appeared on behalf of Kuppuswami withdrew the charge; and there is nothing more to be said about this case.

8. Two more cases were brought to our notice—those of Tholasingham Mudaliar of the Eastern Bank of India, Ltd., and T. Venkatachalam Pillai of the National Bank of India. We could not, however, deal with these cases as the dismissal of the former (Tholasingham) took place on 26th August

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1949, after the date of the notification constituting this Tribunal, and in the case of the latter the termination of service or dismissal was as long ago as 1939. In fact it may be mentioned that no notices were issued in these two cases to the Banks concerned calling upon them to answer any charges.

9. Two other cases were brought to our notice towards the end of the proceedings held at Madras. The first is that of Mr. Bhoovarahamurthy who was a cashier in charge of the branch of the Indian Overseas Bank, Ltd., at Mutupet and whose services were terminated on the 30th May 1949. The application was sent by post, no notice having been given to the Bank. He was also absent at the hearing and no one present at the hearing represented him. He wants his salary for the period during which he was absent prior to his discharge and one month's wages in lieu of notice. In view of the casual manner in which he seems to have sought his remedy from us, we are not inclined to grant any relief in this case and give no directions.

10. The other case is that of C. P. Kuruvilla, a clerk of the Nationa Bank of India, Ltd., whose services were dispensed within December 1944 on the ground of continued ill-health. We have decided not to allow individual disputes such a long standing to be reopned before us and we, accordingly, do not interfere in this case also.

K. C. SEN,
Chairman.

J. N. MAJUMDAR,
Member.

N. CHANDRASEKHARA AIYAR,
Member.

CAMP MADRAS:

The 4th November, 1949.

(Vide *Gazette of India,* Extraordinary, dated 9th December 1949, pages 2647-50.)

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(2)

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 17th January 1950

No. LR-2(263)/I.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following Award of the All-India Industrial Tribunal (Bank Disputes), in the

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matter of alleged victimization, retrenchment, dismissals, etc., in respect of banking companies in the Province of West Bengal :—

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

1. Chartered Bank of India, Australia and China, Calcutta,
2. Eastern Bank, Limited, Calcutta,
3. Comilla Banking Corporation, Limited, Calcutta,
4. The United Commercial Bank, Limited, Calcutta,
5. Bengal Central Bank, Limited, Calcutta,
6. Imperial Bank of India (Bengal Circle),
7. Hindustan Commercial Bank, Limited, Calcutta,
8. Lloyde Bank, Limited, Calcutta,

AND

Their Workmen.

In the matter of a dispute, re *alleged wrongful termination of services, victimization, etc.*

Present :

Mr. K. C. Sen, *Chairman,*
Mr. J. N. Majumdar, *Member,*
Mr. N. Chandrasekhara Aiyar, *Member.*

Appearances :

1. Mr. S. K. Mullick of Messrs. Sandersons and Morgans with Mr. Macfarlane, the Accountant, for the Chartered Bank of India, Australia and China.
2. Mr. P. P. Ginwalla, instructed by Messrs. Orr Dignam & Co., Solicitors, for the Lloyds Bank, Ltd., and Eastern Bank, Ltd.
3. Mr. S. N. Sen with Mr. Tanubhai Desai, for the Comilla Banking Corporation, Ltd.
4. Mr. Tanubhai Desai with Mr. B. T. Thakur, for the United Commercial Bank, Ltd.
5. Mr. P. N. Sen with Mr. S. N. Sen, for the Bengal Central Bank, Ltd.
6. Dr. S. K. Gupta, instructed by Messrs. Sandersons and Morgans, Solicitors, for the Imperial Bank of India.
7. Mr. S. K. Bose, instructed by Mr. B. P. Khaitan, Solicitor of Messrs. Khaitan & Company, for the Hindustan Commercial Bank, Ltd.
8. Mr. M. M. Sen, for the Chartered Bank of India, Australia and China Local Staff Employees' Union.

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9. Mr. S. C. Maulik with Mr. T. N. Guha Roy, for the Eastern Bank (Calcutta Branch) Indian Employees' Union.
10. Mr. J. C. Sen with Mr. M. Banerjee, for the Comilla Banking Corporation Employees' Association.
11. Counsel Mr. Sadhan Gupta with Mr. A. K. Sen, for the United Commercial Bank Employees' Association.
12. Mr. K. L. Roy, for the Bengal Central Bank Employees' Association.
13. Dr. B. Rai Chowdhari with Mr. S. N. Tagore and Mr. Jyoty Ghose, for the Imperial Bank of India Indian Staff Association (Bengal Circle).
14. Mr. Adhir Ranjan De in person.
15. Mr. Provat Kar, for Mr. Dinesh Chandra Bhowmick.
16. Mr. N. N. Sen, for Mr. Kumud Bandhu Chatterjee.
17. Mr. M. M. Sen with Messrs. Provat Kar and Asoke Ghosh, for the Lloyd Bank Indian Staff Association

AWARD

The following cases of alleged wrongful termination of services, victimization, etc., were heard by the Tribunal during their visit to Calcutta from the 3rd October 1949 to the 17th October 1949 and on the 5th December 1949—

I. *Chartered Bank of India, Australia and China*—

Gobinda Chandra De.—He was employed on probation on the 6th November 1944 and later made permanent in the Cash Department. On the 28th February 1947, on the recommendation of a new Chief Cashier who was to replace the existing Cashier on the next day, he along with some others were served with notices dispensing with their services. At that time he was a collecting sarkar. His services were accordingly dispensed with. He had a good record and on the 24th April 1947 he got a certificate of good conduct from the Bank. In all 7 employees of the Cash Department were thus discharged on the 28th February 1947. Two of these were later re-appointed and four secured jobs elsewhere. Only De could neither find employment elsewhere nor was he re-appointed. On the 4th March 1947 the Committee of Management of the Employees' Union passed a resolution to the effect that the sudden dismissal of seven men in the Cash Department had put the rest of the staff in a state of panic because in the past when there had been a change of Cashier no such step had been taken, although the new Cashier was permitted to fill up vacancies that occurred after his appointment by bringing his own men. The resolution added " that it will be difficult for men serving for a period of 10 or 12 years to procure service at such a hard time. Under the circumstances the Authorities and the Cashier be requested to consider their cases favourably and take them either in the Clive Street or Fairlie Place branches with a warning to them if any offence committed ". A letter was sent to the Agent of the Bank with a copy of the resolution on the 5th March, and on the next day the Agent replied that members of the clerical staff might rest assured that it was not and never had been the policy of the Bank to serve dismissal notices out of hand, but that in the case of members of the Cash Department they were employed by the Bank on the recommendation and responsibility of the Chief Cashier for the time being

and that if certain members of the Cash Department were not acceptable to the new Cashier then the Bank under the terms of its agreement with the Chief Cashier had no alternative but to dispense with the services of the unwanted men. The clause of the agreement with the Chief Cashier which was relied upon reads thus :

> "That the Bank shall dismiss any person employed in the said Cash or Godown Departments under the preceding clause of whom the Cashier shall intimate in writing to the Bank that he no longer approves and the Cashier shall select subject to the approval of Agent or Acting Agent or Sub-Agent of the said Calcutta Agency another or others in the stead of the person or persons so dismissed."

In this case it does not appear that the new Cashier gave any intimation in writing to the Bank that he "no longer approves" of Govinda Chandra De. The clause of the agreement relied upon refers to the previous clause which says, "That the Cashier shall accept for employ in the Cash and Godown Departments of the Calcutta Agency the staff of Sub-Cashiers (if any), sarkars, moherers, cash-keepers, poddars, pay clerks, peons, durwans, godown-keepers and other persons formerly employed in such departments at the said Calcutta Agency. All other persons who may hereafter be employed in the said Departments during the continuance of this Agreement shall be selected by the Cashier subject to the approval of the Bank". This clause clearly indicates that the new Cashier was bound to accept the existing staff in the Cash Department at the time of his own appointment. This is further shown by the expression "he no longer approves" in the clause relied on by the Bank, suggesting that the disapproval must come after he has had the opportunity to form an opinion of the work of the employee whom he desires to remove. The new Chief Cashier was examined before the Tribunal but his explanation cannot be said to be convincing. He has stated that he had been informed that all the competent persons in the Receiving and Paying Sections would be transferred to the Fairlie Place branch and that, therefore, he wanted to bring some competent men from outside, but that De was not one of the men to be transferred to the Fairlie Place branch; also that he wanted new men in all the important places, that De was not in an important place and that before he took charge he expressed no opinion of De. In his evidence he stated that it was the prevailing practice with all new Cashiers in Banks that unless he was allowed to bring his own men he would not take charge, that he wanted to bring in 7 men before he took charge and that accordingly, he made a list of seven juniormost men to be discharged, De being one of them. The practice may have been what he has stated, but in view of the terms of the agreement and in view of the fact that De's record must be deemed to be good as shown by the certificate granted to him and also in view of the fact that two out of the discharged men were subsequently taken back by the Bank, we are of opinion that De should be taken back into the service of the Bank within one month of the date with effect from which this Award will become operative and that he should be paid his full pay and allowances in respect of the six months prior to his reinstatement, for we think he must be treated, for the purposes of the clause of the agreement relied on by the Bank, as one of the persons employed in the Cash Department under the preceding clause. We direct accordingly. If the Bank wants to follow an unwritten practice which is not embodied in its agreement, the sooner the form of such agreement is revised the better, for in interpreting the rights of the employees the terms of a formal agreement must be given precedence and superiority over any kind of practice that may be existing in an institution.

II. *Eastern Bank, Limited*— 677

Jadoram Dubay.—He was a sarkar in the Cash Department and aged about 55 years when he was discharged on the 1st May 1949. On the 2nd March 1949 he was sent to the Currency Office to get some currency notes valued about Rs. 4,000 changed. He went to that office, which is a crowded place, and gave the bundles of the notes to a clerk in the said office and received a token in exchange. Thereafter he received one bundle of notes but somehow it got stolen from his person. He at once informed the police and made up the loss of about Rs. 440. On the 8th March 1949 he got a letter from the Bank saying that the Bank had been advised by the Banians that they could no longer guarantee his work which recently had cluminated in the loss of about Rs. 440 and that, therefore, notice was being given for termination of his service with effect from the 30th April 1949. Dubay pointed out that he had made good the loss, but the Manager again wrote to him pointing out to him that the question of recovery of the amount was no concern of the Bank being entirely a matter between the Banians and himself. "The position" the Manager said, "is that you were employed by the Bank subject to the Banians' guarantee. The Banians now advise us that due to a veriety of circumstances they can no longer guarantee you fearing that if they do, they will sustain serious losses. In these circumstances, therefore, the Bank regrets that it can no longer employ you and has given you notice to that effect". In our opinion, the incident on which this man was discharged does not suggest that he had been guilty of dishonesty. He informed the police immediately and made good the loss and there does not appear to have been any previous incident of this nature connected with this employee. He might no doubt had been careless, but as the place was very crowded his pocket might have been picked in spite of precaution having been taken. It seems to us, therefore, that as the employee had completed about 21 years service and attained the age of about 55 years, the termination of his service should be treated as retirement. We direct accordingly and further direct that he should be entitled to all the benefits consequent on honourable retirement.

III. *Comilla Banking Corporation, Limited*—

(1) *Hirendra Nath Roy Chowdhuri*.—He has alleged that he has been demoted for his trade union activities, having been an office bearer of the union. He was appointed by the New Standard Bank as an assistant in 1944 on a salary of Rs. 60. On confirmation his pay was Rs. 70 in the grade of Rs. 70—10—200. On the 25th May 1946 the New Standard Bank was amalgamated with the Comilla Banking Corporation. On the 2nd April 1947 he was appointed as an employee of the Comilla Banking Corporation on the same terms and designation as before. On the 30th January 1948 he was put in the grade of Rs. 50—5—80—6—110—7½—E.B.—7½—170. It is said that he was placed in a lower position than he was entitled to, but the Banks' case is that he was given increments till 1946, that in that year there was a settlement under which there was no provision for any special grade, that thereunder he drew an extra increment of Rs. 21 and extra dearness allowance of Rs. 4 and thus accepted the new grade; that again in 1947 there was a settlement under which an Assistant was given a minimum increment of Rs. 5 pending his being placed in his proper grade under the settlement and that the said increment was duly accepted by him as also the further increment of Rs. 2-8-0 according to his grade it is further stated that in compliance with the 1947 settlement his case was duly considered and that he was notified in January 1948 that his grade would be Rs. 50—170. Thereupon he submitted an appeal to the Chief Manager who rejected the appeal.

Kumud Bandhu Chatterjee.—He was a ledger keeper and his duties were to post entries in the ledger. He was arrested on 1st March 1949 and although discharged on 20th July 1949, for reasons similar to those in the previous cases his reinstatement was refused by the Bank. The Bank's case is that a letter purporting to have been written by Major Chadha on 9th February 1949 regarding the withdrawal of a sum of Rs. 4,000, which led to the detection of the fraud cases, was typed by him on the Bank's typewriter, that he came to the office at 8-30 A.M. and after he had typed the letter he demanded the ledger book from the Jamadar, although the Bank was not open to transact business. The Bank, therefore, suspected his complicity with the other three people mentioned above.

In all the above three cases we must presume that the Bank produced all the available evidence before the police during the investigation of the cases; but after such investigation had failed to confirm its suspicion it proceeded to deal with the three men concerned without the assistance of the conclusions arrived at by the police. All three of them knew full well the grounds of the Banks' suspicions and must have stated their defences during the investigation. The question now arises, what order we should make in regard to these persons. It is not the case of any one of the men that the Bank had any grduge or grievance against him prior to the suspicions having been aroused against them for complicity in the offences. As the Bank entertained reasonable suspicions against these people, it would not be in a position to trust them any more in connection with any work if they are ordered to be reinstated, and in the absence of such trust they would feel that they were not being properly treated by the Bank and would be unlikely to take proper interest in any work they might be entrusted with. But we are of opinion that the circumstances of these cases were such as to justify the Bank's action in terminating their services. The Bank, in its own interest and that of its constituents, is bound to see that its transactions with the public are not unnecessarily endangered by the entertainment on its staff of persons whom it is unable to trust. We, therefore, make no order in these cases.

VIII. *Lloyds Bank, Limited—*

The case of alleged victimization are 62 in number, including 40 cases of dismissals made on the 26th October 1948, eleven cases in which the employees were forced to retire and eleven cases in which the employees concerned were criminally prosecuted and convicted under section 26 of the Industrial Disputes Act. Mr. M. M. Sen who appeared for all these men has not pressed the eleven cases of forced retirement and the eleven cases of dismissal on conviction. The circumstances in which 40 employees were dismissed by the Bank have to be set out in some detail and are as follows.

On the 17th January 1948 the Government of West Bengal referred certain industrial disputes which had arisen between the Bank and the clerical and subordinate staff to a Tribunal and the proceedings of the said Tribunal were pending at the date on which the 40 men were dismissed. The employees of the Central Bank of India were dissatisfied with the manner in which that Bank had given effect to an Award which had been made on a dispute between it and its employees, and considering that the Bank was not implementing the Award the said employees went on strike. On the morning of the 16th August 1948 the Secretary of the Lloyds Bank Indian Staff Association (Calcutta Branches) met the acting Branch Manager of the Bank's Branch at Netaji Subhas Road and intimated to him the decision of his Association to resort to a strike in

sympathy with the Central Bank of India employees to be commenced on the 17th August 1948. On the 15th August the Government of West Bengal had issued a press communique in which they stated that they had learnt with regret that attempts were being made to stage a sympathetic strike on the 17th August of all the Bank employees and that such action would be in furtherance of an illegal strike and, therefore, would also be illegal. Government hoped that any such illegal and anti-social action would be avoided. On the 16th August the Bank issued an office notice to its staff drawing attention to the Government's communique and pointing out that the staff had no concern with the dispute between the Central Bank of India and its employees. The notice concluded with these words.

> "The Management regret the necessity of again having to bring to the notice of the Staff that if any member of the staff absents himself without permission or without good or sufficient reason, he will not be paid for the day or days on which he absents himself, and that by reason of his so absenting himself he is liable to be treated as having wrongfully rescinded his contract, in other words as having voluntarily terminated his services with the Bank."

On the same day the Association issued a notice to all its members in which it was stated, "As the Bank Authorities have threatened the staff individually to deduct one day's pay for 17-8-1948 the Association hereby direct each and every member of the staff not to handle on 18-8-48 any work which work will be accumulating on 17th August 1948". On the 17th August all the members of the staff went on strike. A similar strike was also observed by the employees of the other Banks in Calcutta, including employees of the Reserve Bank.

On the 18th August the Manager of the Calcutta Branch issued a notice to the employees who had absented themselves on the 17th August stating that they had committed a breach of the terms of their terms of service and saying, "The Bank does not condone that absence and fully reserves its right to take disciplinary action after making such enquiries as it deems necessary. In respect of those employees who are not dismissed, a note of this illegal absence will be made in their service records and they will not receive any salary or emoluments for the day on which they were absent". The Bank authorities also addressed letters individually to the members of the staff calling upon them to show cause in writing on or before the 25th August why they "should not be dismissed, discharged or otherwise punished for having—

(*a*) committed a branch of your terms of service with the Bank by your absence without permission on the 17th instant;

(*b*) participated in an illegal strike;

(*c*) instigated or incited other employees to take part in an illegal strike;

(*d*) acted otherwise in furtherance of an illegal strike."

In reply the employees said that each of them had acted in obedience to the direction of the Association and as such they denied the charges levelled against them. On the 19th October 1948 a complaint was lodged in the Court of the Chief Presidency Magistrate against 11 members of the staff for going on an illegal strike and inciting others to do so, under section 26 and section 27 of the Industrial Disputes Act, 1947, and they were suspended. This trial resulted in the conviction of those 11 persons for the offence of going on an illegal strike, and the convictions were afterwards upheld by the High Court. One the 19th October the Working Committee of the Association passed a resolution to the

effect that unless the criminal prosecutions and the suspension orders were withdrawn by the management at 10-30 A.M. on the 20th October 1948 the members of the staff would cease to perform their normal duties after the expiry of the period. A copy of the resolution was sent to the Manager who issued a notice on the same day warning the members of the staff that if they refused to perform their normal duties they would be participating in a strike and would thereby render themselves liable to a criminal prosecution, and or to such other action as the Bank might be advisel. The management also drew attention of the members of the staff to the fact that the prosecutions of certain members of the staff had been authorised by the Government of West Bengal and said that any attempt to compel the withdrawal of such proceedings would be regarded as a subversive movement. The employees attended the Bank on the 20th October but participated in a sit-down strike. The General Manager (Eastern Branches) on that day issued a notice to the members of the staff stating that only those members of the staff who undertook to carry out the normal duties would be allowed admission to the Bank premises with effect from the next day, *i.e.*, the 21st, and that any employee who failed to give such undertaking and/or to perform his normal duties would be liable to summary dismissal. On the same day there was a discussion between the 'parties and the Labour Minister and officials of the Labour Department and the Bank made the following offer; "If the strike is called off with immediate effect the Bank will take no action whatsoever as regards the strike of to-day, the 20th October 1948. Regarding suspension, the persons already suspended will remain suspended." On the 21st October the members of the staff attended their offices and some of them gave an undertaking to carry out their normal duties verbally, that but the majority gave no such undertaking and again resorted to a pen-down or sit-down strike. On the same day a notice was given by the General Manager material parts of which are as follows:

"Having regard to this branch of undertaking the Management considered it necessary to call upon members of the staff who continued such strike to-day to sign a written declaration to the effect that they would perform their duties loyally and conscientiously and would not participate further in the strike. Passes have been issued to those members of the staff who have signed such declaration as well as to members of the staff who have not taken part in the strike and admission to the Bank to-morrow will only be granted to persons who are in possession passes.

* * * * * * * *

"Having regard to the fact that the majority of the members of the staff failed to honour the verbal undertaking given by them this morning, the Management regret it is necessary to warn the staff that they will have no alternative but to summarily dismiss any member who signs the declaration referred to above but who continues to participate in the pen-down strike after the date of this notice".

On the 22nd October the General Secretary of the Association sent a letter to the Manager of the branch at Netaji Subhash Road stating that the general staff would resume their normal duties on that day. Accordingly, the employees attended their office on that day, but the Manager issued an office notice on the same day stating that in order to bring up-to-date the arrears of work because of the pen-down strike on the 20th and 21st October the staff would be required to work additional hours on Saturday as well as the whole of the next week, no remuneration, *i.e.*, either tea money or overtime, being payable for such additional

work. On Saturday the 23rd October also the staff attended office but refused to work overtime. According to a press communique issued by the Government of West Bengal the Bank authorities agreed to take no action as regards the strikes of 20th and the 21st October if the strike was called off immediately and the staff resumed normal work on the 22nd October, that this was conditional on all members of the staff agreeing, if required by the Bank, to work on Saturday afternoon and Sunday, *i.e.*, the 23rd and the 24th October to bring up the arrears of work caused by the 2 days' strike, or alternatively instead of Sunday during the evenings after normal office hours, of the following week; and that the Secretary of the Association agreed to consider the offer and later on the same night telephoned to the Joint Secretary to the Labour Department to say that the Association had agreed to the terms of the settlement and would resume work the next day.

On Monday the 25th October 1948 the Bank authorities issued notices to the members of the staff stating that by their gross misconduct (*a*) in participating in a strike on the 20th and 21st October and (*b*) by refusing to obey orders on the 23rd October they had rendered themselves liable to summary dismissal and that such action would be taken unless (*a*) each of them signed and abided by declaration of loyalty as furnished with the letter (reproduced below) and (*b*) each of them agreed to work overtime and perform such overtime work as might be necessary in the opinion of the management to bring up-to-date the arrears of work that had accumulated as a result of the strike above referred to. It was further notified that as the workmen had refused overtime on the 23rd October the offer previously made to pay their salary for the 20th and the 21st October was withdrawn, and that in the event of their failing to comply with the terms of either or both of the above-mentioned conditions each of them would be summarily dismissed without further notice. Lastly, it was stated in the notice that admission to the Bank on the next day would be contingent on presentation of either a signed loyalty declaration or, in the case of such employees as had already demonstrated their loyalty, passes which had been issued to them. The undertaking that each member of the staff was called upon to sign was in these words :

"(1) I will at all times discharge my duties as an employee of the Bank loyally and conscientiously.

(2) I will at all times be regular and punctual in my attendance at the Bank and will carry out all orders given to me by my superiors.

(3) I will at all times duly abide by all rules of the Bank presently in force or which may be framed in future.

(4) I will not henceforth participate in any illegal strike.

I make this undertaking fully understanding that any breach of the terms hereof will render me liable to disciplinary action which may amount to summary dismissal".

None of the employees signed this so-called declaration of loyalty.

On the next day, the 26th October 1948, the members of the staff were given individual notices of dismissal and an advertisement was published inviting applications for the vacancies that had occurred. The advertisement stated that 'applications for employment would be entertained from ex-employees of the Banks and preference would be given to such applications, although no undertaking as to re-engagement could be given". On the 29th October 1948 the President of the Lloyds Banks Indian Staff Association (Calcutta Branches) sent a letter to the Management of the Bank referring to the settlement which

had been arrived at the intervention of the Minister of the Labour Department on the 20th October and pointing out that the members of the staff had called off strike accordingly and resumed their work on the 22nd October and that there was no term in the settlement that the extra time that the employees might be required to work would be dictated by the Bank. He further pointed out that on Monday the 25th October the clerical staff had made up more than three quarters of the arrears and would have finished the balance within a short time, so that the conduct of the Bank authorities in issuing a notice on the 22nd October regarding the extra hours in which the staff was to work and requiring the employees to sign the bond was altogether unjustified and arbitrary. It was also stated that the Bank had resorted to an unjustified lock-out which should be withdrawn immediately. On the 30th October 1948 the General Manager (Eastern Branches) sent a copy of this letter to the Labour Commissioner, West Bengal, stating that the statements that the arrears of work had already been made up to a considerable extent and that it was not within the Bank's province to decide when extra time should be worked, were not in accordance with facts. The Bank denied that there had been a lockout as all were free to enter the Bank premises on the 26th provided they signed the loyalty declaration and abided by the terms thereof. On the 3rd November the management began to interview the new applicants for the vacancies, some of whom were ex-employees, who numbered 474. The Bank re-employed 434 out of the said ex-employees, and the present grievance is with respect to the remaining 40 men.

Whatever differences existed between the parties up to the 21st October were settled by the settlement arrived at the intervention of the Labour Minister of the Government of West Bengal on the evening of the 21st October. It is a pity that the terms of the said settlement were not at once reduced to writing and signed by the parties. According to the Association the settlement was arrived at in the following terms :

"(*a*) that the Bank will not take any step against any of the staff (other than those against whom criminal proceedings has been started) for any act done by them.

(*b*) That the employees who had taken part in the pen-down strike will be paid their salaries for those 2 days.

(*c*) That the employees would make up the arrears of work, which had accumulated during the pen-down strike, by working extra hours if necessary without remuneration.

(*d*) That the employees would not be required to sign any declaration or undertaking.

(*e*) That the employees will call off the pen-down strike".

According to the Bank at the said meeting the Bank Manager agreed not to take any steps against the members of the staff (other than those who had been criminally prosecuted on the strike being called off immediately subject to the further condition of the "members of the staff agreeing, if required by the Bank, to work on Saturday afternoon and on Sunday the 24th October to bring the arrears of work caused by the two days strike; or alternatively instead of Sunday, during the evenings after normal office hours of the following week". This additional condition also appears in the account of the negotiations to be found in the press note issued by the Government of West Bengal at the time, which adds, "A copy of this assurance given by Mr. Parker (General Manager

of the Bank) was handed over to Sri Provat Kar, Secretary of the Staff Association, who said that the staff would consider the offer that night. Later that night Sj. Kar 'phoned the Joint Secretary, Labour Department, to say that the Association had agreed to the terms of the settlement and would resume work next day". The staff resumed normal duties on the 22nd October. On that day the management issued an office notice to the effect that in order to bring up-to-date the arrears caused by the pen-down strike the members of the staff would be required to work additional hours on the following dates :

Saturday, 23rd October .. .. .. up to 5 p.m.

Monday, 25th October to
Friday, 29th October both days inclusive .. up to 7 p.m.

The Association has commented on this notice as follows :—

"The arrears in work for two days pen-down strike was very little and it was not necessary for the employees to work so many extra hours for clearing the arrears. In fact the employees on the 22nd October completed nearly 80 per cent of the arrears of work as in a Banking institution it is impracticable to perform day's normal duties without having completed the previous days work because all the books in a Banking institution are posted in a date order and balanced daily. The above notice was served as a punitive measure in spite of the aforesaid agreement as it will be seen that these extra 13 hours will compensate 13 hours lost during the pen-down strike. The employees resented this as it was clear that the intention of the notice was to force employees to perform the extra work in connection with the annual closing which was scheduled to take place on the 31st October without paying any extra remuneration as a punishment for these two days pen-down strike under the grab of implementing the terms of the agreement." On the 29th October the President of the Association wrote a letter to the Manager of the Bank in which it was stated that there had been no term in the settlement that the extra time that the employees might be required to work would be dictated by the Bank, and that by Monday (the 25th October) the staff had made up more than three quarters of the arrears. It is, however, possible to take the view that both the parties acted honestly, the Bank authorities being anxious that the arrears should be finished by the end of the next week and being of opinion that they had the authority to prescribe what the extra hours should be, and the members of the Association feeling that this was an unjust imposition as the clearing of arrears might safely have been left to the members of the staff themselves. As a consequence, the workmen refused to do any overtime work on Saturday the 23rd October. This seems to have annoyed the authorities who on the following Monday, the 25th October, issued notices to the members of the staff saying that by participating in the strike of the 20th and the 21st (which was to have been ignored under the settlement) and by refusing to obey the orders passed on the 23rd instant (probably the orders as to overtime work made on the 22nd October are meant) each member had made himself liable to summary dismissal. Such dismissal was threatened unless the employees forthwith signed a "declaration of loyalty" and strictly abided by the terms thereof and also agreed to perform such overtime work as might be necessary to bring up-to-date the arrears of work resulting from the strike. Thirdly the authorities withdrew the offer previously made to pay their salary for the 20th and the 21st October. Fourthly, it was stated in the notice that if any employee failed to sign the declaration of loyalty or to agree to work overtime as required he would be summarily

dismissed without further notice. Lastly, it was intimated that the admission to the Bank on the next day would be contingent on presentation either of a signed loyalty declaration or of a pass already issued to an employee. The effect of this notice must have been provocative of a great deal of annoyance and resentment on the part of the employees. In the first place, it was stated that unless, the terms now presented were compiled with an employee "would be summarily dismissed without further notice." It was not even stated that they would be liable to be summarily dismissed or that any objections they might have to the said conditions would be considered before such drastic action would be taken for the employees might easily have very strong objections to the terms of the undertaking they were called upon to sign. The terms of the said undertaking have already been set out above. The undertakings "will carry out all orders given to me by my superiors" and "I will at all times duly abide by all rules of the Bank presently in force or which may be framed in future" are so wide in their connotation and significance that they might legitimately arouse the fear in the minds of the members of the Association that these undertakings, if signed, would enable the Bank in future to order that members should sever their connection with the Association or should be summarily dismissed in case they made any demand or took any action which was disliked by the authorities. This seems to us to be the main reason why not a single member of the staff signed the undertaking. It will, again, be seen that the announcement that the admission to the Bank on the next day would be contingent on the presentation of a signed loyalty declaration or a pass amounted to a lock-out of such of the employees as did not sign the declaration or possessed passes. Besides, the statement that the authorities had withdrawn the offer made previously under the settlement to pay the salaries for the 20th and the 21st October was, no doubt, regarded as unjustifiable and as a going back on a settlement validly and properly made. In any case, as already pointed out there were good reasons why the workmen did not agree to give the undertaking required by the authorities: but they were told beforehand without a semblance of any realization that there could be any objection to the undertaking being given, that if the conditions sought to be imposed by the Bank were not complied with the employees would be summarily dismissed without any notice. Accordingly on the 25th all the employees of the two branches of the Bank involved in the dispute, *viz.*, those situated at Chowranghee and at Netaji Subhas Road, were dismissed from the service of the Bank.

It also seems to us that the prosecutions launched against 11 of the strikers was a drastic step, for it has been stated and not denied that though similar strikes occurred in other Banks on the 17th October, including the Reserve Bank, no such prosecution was launched by any of those Banks and the utmost punishment that was inflicted in such cases was to cut the pay of the strikers in respect of the day of the strike. It seems that it was the drastic nature of the step taken in prosecuting 11 employees that was the cause of the pen-down strike of the 20th October. As the matter had gone to a criminal court the workmen were probably not justified in asking for the immediate withdrawal of the prosecutions which had been made at the instance of the provincial Government although it was not beyond the capacity of the Bank to discover that the step taken by it had been too drastic as compared with the action taken by the other Banks and to represent to the provincial Government that they did not desire that the prosecutions should be proceeded with. In our opinion, the total effect of (*a*) the prosecutions, (*b*) the lock-outs of the 21st and the 26th October, (*c*) the requirement to sign the declaration of

loyalty, (*d*) the withdrawal of the offer to pay the salary for the 20th and the 21st October, (*e*) the threats of summary dismissal held out in more than one of the notices, and (*f*) the Bank authorities' refusal to negotiate with the Association (the negotiations were carried on triangulary through the Labour Department of the provincial Government), if not (*g*) the order as to overtime work also, was unduly provocative. The initial strike of the 17th August might have been illegal as held by the Courts, but the Bank was at more than one stages prepared to condone it except in the case of those who had been convicted. On the other hand, it must also be said that in certain matters, for instance, in asking that the prosecutions should be immediately withdrawn and the pen-down strikes the members of the Association need not, one might also say that they should not, have adopted the attitude which they adopted from time to time. But on the whole it seems to us that the conduct of the Bank authorities, when viewed in its proper perspective, was unduly harsh and drastic, and it is our considered opinion that employers who are capable of such conduct do not promote the best interests of the industry. The promotion of discipline among the employees is no doubt very desirable and necessary, but it should not be sought to be achieved by unduly harsh measures or an unnecessary show or exercise of power. In the interests of peace and harmony between the employers and the employees it seems to us that the bitterness and sufferings caused by the happenings of October 1948, should be now removed as far as possible. The whole thing originated in the strike of the 17th August, regarding which the Chief Presidency Magistrate has taken a lenient view, for he has imposed a fine of only Rs. 25 on each of the accused; whereas the 40 employees now under consideration, though they have not been prosecuted, have had to undergo a lengthy process of unsympathetic and provocative treatment at the hands of their employers, culminating in their dismissal. We are unable fully to approve of the conduct either of the Bank or of the employees concerned in the matter, and we consider that it would be equitable if the 40 men are deprived of a part of their salary and reinstated subject to such a condition. We, accordingly, direct that the Bank shall reinstate them within one month of the date with effect from which this Award becomes operative and pay them their arrears of pay and allowances for the six months prior to such reinstatement.

K. C. SEN,
Chairman.

J. N. MAJUMDAR,
Member.

CAMP, CALCUTTA :
5th January 1950.

N. C. KUPPUSWAMI, *Under Secy.*

(Vide *Gazette of India*, Part I—Section I, dated January 28, 1950, pp. 136-145).

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GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 30th January 1950

No. LR (260)/I.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes), in the matter of alleged victimization, retrenchment, dismissals, etc., in respect of banking companies in the Province of Delhi, East Punjab and Bihar.

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

1. The Bharat Bank, Limited, Delhi.
2. The Punjab National Bank, Limited, Delhi.
3. Displaced Banks Association, Delhi.
4. The Allahabad Bank, Limited, Delhi.
5. The Central Bank of India, Limited, Delhi.
6. The Gadodia Bank, Limited, Delhi.
7. The Bank of Bihar, Limited, Patna.

AND

Their workmen

In the matter of alleged cases of victimization, retrenchment, dismissals, etc., in the Provinces of Delhi, East Punjab and Bihar.

Present:

Mr. K. C. Sen, *Chairman*,
Mr. J. N. Majumdar, *Member*,
Mr. N. Chandrasekhara Aiyar, *Member*.

Appearances:

Mr. Vedvyas, Advocate, for the Bharat Bank, Ltd.,
Mr. Ramlal Anand with Messrs. Hans Raj Sawhney and Charandas Puri, Advocates, for the Punjab National Bank, Limited,
Mr. A. R. Khosala, Advocate, for the Displaced Banks Association,
Mr. Lala Bishan Das, Manager, The Allahabad Bank, Limited,
Mr. H. C. Captain, for the Central Bank of India, Limited,
Mr. H. D. Grover, for the Gadodia Bank, Limited,

Mr. Girija Nandan Prasad and Mr. Devendra Prasad, for the Bank of Bihar, Limited,
Mr. H. L. Parwana, President, for the Bharat Bank Employees' Union, Delhi,
Mr. H. L. Parwana and Mr. H. L. Puri, for the Punjab National Bank Employees' Union, Delhi,
Mr. H. L. Dogra, for the Punjab National Bank Employees' Union (East Punjab), Ludhiana,
Mr. Dharam Vir Taneja, General Secretary, for the Punjab National Bank Workmen's Union, Delhi,
Mr. A. R. Whig, Advocate, for the Punjab National Bank Employees' Union, East Punjab,
Mr. Dayaldas, for the Allahabad Bank Employees' Union, Delhi,
Mr. J. N. Mehrotra, for the Employees of the Central Bank of India, Branches in Delhi,
Mr. Rajeswar Kumar, President, with Messrs. Ram Lakhan Singh and Ragho Nandan Prasad, for the Bank of Bihar Employees' Association, Patna.

AWARD

By their Order No. LR-2 (212), dated the 13th June 1949, the Ministry of Labour, Government of India, referred an industrial dispute between certain banking companies (including their branches) and their employees in respect of certain matters for adjudication by this Tribunal. As those matters comprised not merely questions of scales of pay and dearness allowance, etc., but also cases of retrenchment and victimization complained of by employees, and as demands for interim relief were made by employees in several provinces, the Tribunal decided to visit some places including Delhi and Patna, where demands for interim relief and individual complaints against banks could be conveniently enquired into locally. This Award will relate to such matters (excluding demands for interim relief regarding which separate Awards have been made) as were enquired into at Delhi and Patna and as admit of decision at the present stage.

A. *Cases of proposed retrenchment heard at Delhi.*

2. There were applications for permission of the Tribunal for retrenchment to be made by:—

(1) The Bharat Bank, Limited,
(2) The Punjab National Bank, Limited, and
(3) The Displaced Banks' Association.

After some discussion they said that they did not want to proceed with their applications and asked for permission to withdraw them. The permission was granted.

B. *Cases of alleged victimization heard at Delhi.*

3. Item 18 of Schedule II to the Ministry of Labour's Order, dated the 13th June 1949, is "Retrenchment and victimization (special cases to be cited by employees)." The expression "victimization" has not been defined in

the Act. It is, however, often used, though the answer to the question, "What is victimization?" given by different Courts and Tribunals has not always been uniform. At page 373 of the Bombay Textile Labour Enquiry Committee's Report (1940) it was stated, "Under the Bombay Industrial Disputes Act, 1938, victimization of workers for being members of trade unions or for participating in union activities is made an offence and it may be hoped that, as a result of this, complaints about victimization will cease." It is, however, not quite clear whether the Committee regarded victimization as inevitably connected with trade union activities. In some Awards it has been held or assumed that there must be a connection between the two. It was held by Mr. D. G. Kamekar, Member of the Industrial Court, Bombay, in an Award on a dispute between the Khandesh Spinning and Weaving Mills Co., Ltd., Jalgaon and their employees (Industrial Court Reporter, April-June 1948, P. 195) that "the Industrial Court will not set aside an otherwise valid order of discharge and order reinstatement, even when deciding a reference made under section 49A of the Bombay Industrial Disputes Act, unless it appears that the employer is guilty of unfair labour practices or that the order of discharge was a mere cloak and the true reason was victimization of the employees concerned for their trade union activities." In an Award given by Mr. S. C. Chakravarty on an industrial dispute between the Imperial Bank of India, and its employees, which was published in the *Calcutta Gazette* as part of an order of the Government of West Bengal, dated the 22nd December 1948, the learned Adjudicator said, "Victimization clearly indicates punishment for trade union activities." In another Award, made by Mr. R. Gupta on the industrial dispute between the Imperial Bank of India, and its employees, and published in the *Calcutta Gazette*, dated the 6th September 1947, as part of an order of the Government of West Bengal, dated the 4th August 1947, the learned Adjudicator said, "I was under the impression that the Association wished to place before me the cases of employees who had either been dismissed or transferred because of the part taken by them in the strike. This is what I clearly understood by the word 'victimization.'" He, however, further said that he would be prepared to interfere if the action taken against the employee "was unjust and due to ulterior motive." This was actually done in the case of one J. N. Gupta who had been transferred from Kanpur, and the Adjudicator directed that he should be transferred back to Kanpur if he wished. Though J. N. Gupta was Joint Secretary, Kanpur Branch Association, the order was not based on his conduct, as such Joint Secretary but because the Bank had been unable to show why it had been necessary to transfer him when there were men among senior clerks available at Kanpur. In another Award, dated the 27th March 1948 of the Industrial Tribunal, Calcutta, on an industrial dispute between the Hooghly Bank, Ltd., and its employees, which was published in the *Calcutta Gazette* as part of an order of the Government of West Bengal, dated the 5th April 1948, the learned Adjudicator, Mr. M. C. Banerjee, referred to the following observations of croom-Johnson J. In *R.* v. *National Arbitration Tribunal*, ex-parte *Horatio Crowther and Co., Ltd.*: "The real claim was that the alleged reason for their dismissal was not a true one and that they had been 'victimized', *i.e.*, been got rid of because they were members of the Chemical Workers' Union," and the learned Adjudicator observed, "This statement of the learned Judge clearly shows that victimization is a measure taken in retaliation of the employees' union activities." In an Award made by Mr. A. Das Gupta on an industrial dispute between *Messrs. Turner, Morrison & Co., Ltd.*, and one of their employees who had been discharged (published in the *Calcutta Gazette*, dated the 25th

August 1949 as part of an order of the Government of West Bengal, dated the 23rd August 1949), the learned Adjudicator was inclined to give a wider meaning to the expression 'victimization'. He said, "'Victimization' has been defined in an award given by Junab Niwaj Muhammad in the case of *Mazdoor Hargaon* vs. *Arjun Sugar Mill* as whatever injures or illegally affects an employee. In the case of Coimbatore Cement Works, the Adjudicator Sri C. R. Krishnaram, has defined the term as the taking of some action prejudicial to the workers on some pretexts other than the real reason..... I am not inclined to put a narrow interpretation on the terms 'victimization' and 'unfair labour practice'. If there cannot be any victimization or unfair labour practice except in relation to Union activities, employees of a firm who have no Union will not be entitled to any relief under the Industrial Disputes Act, 1947. The result will be that either the employer would try to engage non-Union men or that a non-Union man will be forced indirectly to join a Union. If Industrial Courts refuse to give relief to an employee unfairly discharged simply because there was no Union activities on his part and hence no victimization or unfair labour practice on the part of the employer he will be compelled to join a Union. This will be interfering with the natural rights."

4. It is now clearly established by a consensus of Awards that a Tribunal has power to interfere not only where a workman has been dismissed because of his trade union activities but also where his dismissal is so unjust or improper that some relief is called for in the interests of justice. The word "victimization" has not been defined in any law dictionary which has been referred to before us. According to the Concise Oxford Dictionary, III edition, page 1375, the trade union meaning given to the word "victimize" is, "to make (ring leader, etc.) suffer by dismissal or other exceptional treatment." This does not appear to show any connection between victimization and trade union activities. In Webster's New International Dictionary, II edition, page 2841, "victimize" has been thus defined: "to make victim of; to sacrifice; especially to make a victim of by deception; to deceive; to dupe; to cheat." This definition gives the general meaning of the word "victimize" but does not mention any technical significance attaching to the word. The expression "unfair labour practice" is to be found in section 8 of the National Labour Relations Act, 1935, of the U.S.A. That section mentions five items, at least one of which is not connected with trade union activities, *viz.*, "to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act." In "Industrial Organization and Management" by Bethel and others (published by McGraw-Hill Book Company, Inc., 1945) at page 457 the different kinds of practices which have been held by the Board set up under the American Act to be unfair labour practices have been given, some of which, again, are not connected with trade union activities, for instance, discriminating in lay-offs, furloughs, or assignment of work, failure to pay back pay ordered by the Board and not showing a willingness to negotiate during bargaining.

5. In this connection the terms of sub-section (1) of section 101 of the Bombay Industrial Relations Act, 1946, may be relevant. That sub-section is as follows:—

> "No employer shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—
>
> (*a*) is an officer or member of a registered union of a union which has applied for being registered under this Act; or

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(*b*) is entitled to the benefit of a registered agreement or a settlement, submission or award; or

(*c*) has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in a proceeding under this Act; or

(*d*) is an officer or member of an organization the object of which is to secure better industrial conditions; or

(*e*) is an officer or member of an organization which is not declared unlawful; or

(*f*) is a representative of employees; or

(*g*) has gone on or joined a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provision of this Act."

It will be seen that clauses (*b*) and (*c*) deal with matters unconnected with trade union activities. It may be that victimization is not for all purposes the same as unfair labour practice or as the practices or acts forbidden under section 101 of the Bombay Industrial Relations Act. There is, however, no reason, in our opinion, why victimization should be specially connected with trade union activities, though, as a matter of fact, probably the largest number of cases of dismissals, etc., with which Industrial Courts and Tribunals are concerned are so connected. It is also undoubtedly true that in the majority of such cases the employer gives a reason for discharge or dismissal, etc., which is not the true reason. In our opinion, the expression victimization should embrace all cases of discharge, dismissal, punishment inflicted on or suffering caused to an employee where such discharge, dismissal or infliction of such punishment or suffering is so unjust that a remedy is called for in the interests of justice between the parties. This is no doubt a wide definition, but it appears to be consistent with the basic meaning of victimization; we are not satisfied that a narrower technical meaning has been evolved during the history of employer-employee disputes and their management or development in the different countries of the world. The Central Government could not also have meant, by the use of the word victimization, any particular kind of discharge or dismissal, etc., for instance, those arising only out of trade union activities. There was no particular reason to mention such cases and leave out other cases of unjustifiable discharge or dismissal, etc.

6. (I) *Allahabad Bank, Ltd.*—Two of the three cases of alleged victimization were heard, *viz.*, those of—

(1) *Satya Prakash,* a clerk in New Delhi office, whose services were terminated on the 3rd May 1949. He was a probationer and the Manager stated that a bad report was received after he had served the Bank for three months. He was absent at the hearing. This does not appear to be a case of victimization and we do not interfere.

(2) *Jeeyalal Sharma,* whose services at the Meerut branch of the Bank have been terminated. This case requires further consideration, and we defer passing orders at this stage.

(II) *Central Bank of India, Ltd.*—

Lashkari Ram Mehta, serving in the Delhi branch of the Bank. His only complaint is that his increment has been stopped. This also has not been shown to be a case of victimization. He has now sent a letter saying that his application may be treated as cancelled. We, therefore make no orders in this case also.

(III) *Bharat Bank, Ltd.*— 697

7. A list of 95 alleged cases of victimization was filed by the Bharat Bank Employees' Union. The following cases arose after 13th June 1949, and we give no directions regarding these :—

No. 1 Hari Kishen Das,
No. 2 S. S. Shetty,
No. 3 R. L. Sally,
No. 4 S. S. Tripathi,
No. 93 G. D. Mathur,
No. 49 Basant Singh.
No. 95 Salekh Chand.

The following eight persons were dismissed but have been allowed to return to the Bank's service. We give no directions regarding these men also :—

No. 42 Roshan Lal Jain,
No. 43 M. K. Sharma,
No. 44 Harnarain Kokcha,
No. 45 Raghbir Singh,
No. 46 Narinder Nath,
No. 47 S. P. Gupta,
No. 48 C. B. Dubey,
No. 49 Basant Singh.

According to Mr. H. L. Parwana, President of the Union, the union which was formed in August, 1948, has the majority of the workmen of the Bank as its members ; the Bank, since its inception in 1944, has dismissed a "record number" of its employees and an abnormal number have been transferred from place to place by way of harassment ; and there have been three strikes, one on the 11th November 1948, after which the Union was recognized by the Bank, the second from the 3rd to the 9th December 1948 and the third from the 9th to the 23rd March 1949. The general attitude of the Bank, according to Mr. Parwana, will be apparent from the following : (1) the President, the Vice-President, the Secretary, the Joint-Secretary, members of the General Council, the Negotiating Committee and the Working Committee of the Union, as well as other active workers of the Union have all been dismissed. Nine persons were dismissed on the 19th March 1949 and 21 on 21st March 1949. (2) There are a large number of cases in which workmen have been transferred from the places where they had been working actively for the Union, merely as a mode of harassment. (3) In certain personal files and letters relating to workmen their trade union activities have been prominently referred to and some letters also contain recommendations that certain workers who have been taking part in such activities should be transferred or otherwise dealt with as a punishment. It was also stated that the persons concerned (except the President) were not given any charge nor were they given any opportunity to explain their alleged misconduct.

8. A large number of employees were dismissed in March 1949. The following two cases arose prior to that month :—

No. 5. *S. N. Khanna.* He was dismissed on the 8th January 1949 owing (it is contended) to his absence from duty during the strike of December 1948. Mr. Vedvyas on behalf of the Bank has contended that he was dismissed because he committed a serious mistake in checking vouchers and he refused to obey an order when called

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upon to work in another department. As to the mistake committed he gave an explanation and the dismissal order makes no mention of it. As to his rufusal to obey an order, he seems to have felt that doing the work which he was ordered to do would mean his working in a role inferior to his own. The workman appears to have taken part in the December strike—this has not been denied—and the dismissal order is *prima facie* an unduly harsh order. This case appears in our opinion to be really one of victimization due to the workman's participation in the strike. His refusal to obey an order probably merited some punishment. We, therefore, direct that he should be reinstated but that he would be paid what he would have earned if he had worked from the 1st April 1949. This direction should be given effect to within a month from the date with effect from which this Award becomes operative.

No. 8. *Gursarandas Sharma.* He was dismissed on the 22nd December 1948. He was absent in the proceedings and it does not appear that Mr. Parwana has been duly authorised to appear for him before us. Mr. Vedvyas states that he has not only taken back his security deposit but has secured a job elsewhere; he also says that if Sharma wants to come back, the Bank would take him back as a new entrant. We do not think that this case calls for any direction from us.

9. One case which arose after March 1949 may also be dealt with before we deal with those dismissed in that month:—

No. 7. *Om Prakash Gupta.* He was dismissed in April 1949 on the ground that he scored out certain entries and destroyed a voucher. When called upon to explain his conduct he falsely said that he had acted under his superior's instructions. He was an employee brought by the Treasurer who has replaced him by another man. As he gave a false explanation, the Bank was entitled to get rid of him on justifiable suspicion that this was an attempt at defrauding the Bank. We do not think that this is a case in which we should interfere.

10. As regards the strike which took place in March 1949 Mr. Vedvyas, on behalf of the Bank, gave the following account:

The main strike was between the 3rd and the 9th December 1948. The Provincial Government appointed the District Judge, Delhi, as a Tribunal and, after referring the dispute to him under sec. 10 of the Industrial Disputes Act, prohibited the continuance of the strike under sub-sec. (3) of the said section. Thereafter the work was resumed. Arrears had accumulated; they were cleared except in the Agency Department (to which the persons dismissed mostly belonged) which adopted the tactics of slowing down work. Chauhan (No. 11) wanted 3 additional clerks and additional payment. The clerks were given and the Management agreed to the additional payment provided the arrears were cleared by 21st March 1949. The Union Secretary Bhattacharya, not an employee of the Bank, was arrested by the Police; this was followed by threat of a strike but it did not materialise.

Thereafter on the 9th March 1949 there was a strike of the workmen in the head office; there had been neither notice nor demands before. On the 10th March 1949, after a Circular had been issued, work was resumed but it was accompanied

by slow-down tactics. On the 11th March 1949 the strike was resumed. The Bank then applied to the District Judge for permission to dismiss 8 persons under section 33. The workmen said that the strike was not concerned with the dispute before the District Judge and the District Judge held on the 18th March 1949 that section 33 did not apply and rejected the application.

On 18th March 1949 the Bank by a Circular called upon its workmen to resume work on the next day. On 19th March 1949 work was not resumed. Thereupon notices were issued to individual workers to show cause by 3 P.M. on the same day why they should not be dismissed. The notices were not accepted. No cause was shown. On the same day orders were passed against 9 persons (Nos. 10—M. C. Vashisht, 11—A. S. Chauhan, 13—Yudhister Dev, 14—K. K. Banerji, 15—D. P. Bhatia, 16—R. L. Goga, 20—Kali Ram Jain, 21—M. K. Jain and 22—Tara Chand) that as they had refused to accept the notices or to give explanation of their conduct they were dismissed.

Similarly 21 more were dismissed on 21st March 1949.

The persons dismissed in March 1949 were guilty of (1) illegal strike and (2) refusal to work, contravening bye-laws 9 and 10 of the Bank and rule 5 of its Leave Rules. The Bank, therefore, was justified in dismissing them. The words "in breach of contract" in section 23 of the Act were also relied upon. Section 23 (*b*) and section 24 (1) (*ii*) were also relied upon and it was pointed that (*a*) the proceedings before the District Judge were pending and that (*b*) Government had on 8th December 1948 prohibited under section 10 (3) the continuance of the existing strike. Between 9th December 1948 and 9th March 1949 no fresh demands were presented; the original demands comprised all possible demands. Therefore the March strike should be deemed to be a continuation of the December strike as a form of pressure exerted to obtain the original demands.

By Bank's Circular of the 10th March workmen were told to resume work; in their Circular of the 18th March it was pointed out that their demands had gone to the Director of Indian Industries and Labour and they were asked not to continue the strike and told that if they did they would become liable for disciplinary action against them. On the 19th they were told to show cause by 3 P.M. on the same date why they should not be dismissed for absence from duty and for instigating others to remain absent from work. Throughout the period all were attending the Bank but doing no work.

Head clerk Bhandari was ordered to serve the notices; he reported that they refused to take them. On the same day (19th March) in the evening the orders of dismissal were passed. As to Parwana a notice was served on him on the 21st he said in explanation that the workmen were on a legal strike, that the demands had been sent to Government and that there had been no instigation. He was dismissed on the 21st March. On the 21st 21 more were dismissed; in their cases no 'show cause' notices had been served.

Out of the dismissed men 8 have come back.

The first batch of 9 were Nos. 21, 16, 22, 14, 15, 11, 10, 13, 20, and the second batch of 21 were Nos. 44*, 45*, 24*, 46*, 27, 26, 43*, 25, 9, 30, 19, 42*, 32, 17, 23, 47*, 48*, 31, 28, 49*, 29 in the Union's application.

After the dismissals the Union officials went to the local Government for redress and for prosecuting the Bank officials, but to no effect. They then sent a threat that an "atom bomb" would be thrown. This was a letter sent to Sheth Dalmia, dated 11th April 1949 signed by Bhattacharya as Secretary for the Union, in which the most scurrilous remarks were made about Sheth Dalmia

and an "open letter" was enclosed asking that the dismissed men should be taken back by 4 P.M. on 12th April 1949, otherwise the publication of the scurrilous remarks was threatened; the threat was carried out to the Bank's great detriment.

11. Mr. Parwana's reply was as follows. Bhattacharya was compelled to resign from the Union on the 29th May 1949. The delay in taking such action was due partly to Mr. Parwana's absence owing to family troubles and to an enquiry into Bhattacharya's conduct that had to be made. The union thus dissociated themselves from Bhattacharya's letters and condemned his action. Mr. Parwana further contended that as for Mr. Vedvyas's arguments based on sections 23 (*b*) and 24 (I) (*ii*) of the Act they were fallacious, for the proceedings which were pending before the Tribunal related to a different and unconnected strike; and as regards the argument based on section 24 (1) (*ii*) of the Act, again, he pointed out that Government's Order dated the 8th December 1948 related to an earlier strike and contended that this argument too, was unsustainable. According to him the March strike was based, at least largely, on a new set of demands which were not filed before the Tribunal. We saw those demands and they seem to us to differ in some material respects from the demands made in the earlier strike. Those demands had been presented from time to time to the Bank; this is clear from the summary of the correspondence between the Bank and the Union which has been filed before us.

12. The alleged infringement of the Bank's bye-laws and rules may be dealt with first. Mr. Vedvyas relied on bye-laws 9 and 10 and rule 5 of the Leave Rules. The 2 bye-laws are as follows:

Bye-Law 9.—An employee may resign from the service of the Bank by giving one month's notice.

Bye-Law 10.—In the event of an employee absenting himself from duty without leave or leaving the service of the Bank suddenly and abruptly without giving the notice required in Rule (9) above, he shall be liable for forfeit not only the balance in his security deposit account but shall also be liable to pay to the Bank his salary for the period of the required notice.

In this case bye-law 9 has obviously no application, absention from work not being the same as resignation; nor does bye-law 10 appear to apply, as no action was taken thereunder and this was no mere case of absence from duty without leave or leaving the Bank's service. Leave rule 5 is as follows: "An employee remaining absent from duty without permission whether in continuation of leave already granted or otherwise, is liable to dismissal". Though this may seem technically to apply, this was not an ordinary case of absence without permission. If there was an industrial dispute underlying such absence, this Tribunal would have jurisdiction to say whether the dismissals were justified or should be interfered with. We would express our general agreement with the following observations of Mr. A. Das Gupta in the Award made by him on an industrial dispute between Messrs. Cox and King's (Agents) Ltd., and their employees (published in the *Calcutta Gazette*, Extraordinary, dated the 8th August 1949 as part of an order of the Government of West Bengal of the same date). "The whole object of the trade union is to carry on collective bargaining and negotiations with employers. And when all attempts fail coercive policy is adopted as a final recourse. Strike is one of these coercive policies. It is a most essential part of the trade union programme. The strike, picketting

and boycott are the coercive policies. Without these coercive policies, which have to be used with utmost vigilance, the Union is defenceless. By striking work the members withdraw from work but insist at the same time upon holding their jobs. This is an essential feature of the strike." In Ludwig Teller's Labour Disputes and Collective Bargaining" (Volume II, p. 754) it has been pointed out that striking employees retain their status as employees under the National Labour Relations Act of the U.S.A., under two circumstances: (1) where they strike in connection with a 'current labour dispute'; and (2) where the strike is the result of an unfair labour practice.

13. In this case it seems to us quite clear that the March strike was not a continuation of the December strike. The industrial dispute that was involved in the strike in December 1948 was referred by the local Government to the arbitration of the Industrial Tribunal at Delhi and thereafter the strike ended. The preceedings went on to March 1949. On the employees going on strike again on March, 9 1949 the Bank made an application to the said Tribunal for permission to take disciplinary action against some of the strikers. The strikers said that the strike was entirely unconnected with the strike of December 1948. The Tribunal's order was: "In view of Mr. Shiv Charan Singh's statement (on behalf of the employees) and the clear statements in the written statement filed on behalf of the employees, Mr. Vedvyas is satisfied that no order is necessary for this Tribunal granting any permission under section 33, the position of both parties now being that the bank will not be contravening the provisions of section 33 of the Act if they take action against the employees on account of any misconduct connected with the present strike. It is not, therefore, necessary for me to grant any permission under section 33 of the Act and the petition is accordingly dismissed." This order is dated the 18th March and it is after this date that the dismissals now under consideration were made. In view of the position taken up by Mr. Vedvyas before the Delhi Tribunal it does not now lie in his mouth to contend that the strike of March 1949 was a continuation of the strike of December 1948. On the evidence, too, we are satisfied that that position was correct.

14. As regards section 23 of the Act the relevant part thereof is: "No workman who is employed in any industrial establishment shall go on strike in breach of contract during the pendency of proceedings before a Tribunal and two months after the conclusion of such proceedings." Mr. Vedvyas has contended that the words "proceedings" must be construed to mean "any proceedings" and that it should not be held to mean only proceedings in respect of the dispute which is the matter in issue in the strike. Mr. Vedvyas's contention now derives support from a recent decision of the Calcutta High Court Criminal Revision No. 623 of 1949 *Pravat Kumar Kar and others*) *V.T.C. parker* confirming the conviction of 11 workmen of the Lloyd's Bank under section 26 of the Industrial Disputes Act by the Chief Presidency Magistrate, Calcutta. The Chief Justice and Mr. Justice Chatterjee who heard the application took the view that the words "in respect of any of the matters covered by the settlement or award", which appear in clause (*c*) but not in clauses (*a*) or (*b*) of section 23, had been deliberately inserted and that they were intended to draw a clear distinction between strikes and lockouts on matters in respect of which an award or settlement had been made and strikes or lockouts connected with matters not covered by any award or settlement, and that, therefore, the words of clauses (*a*) and (*b*) were intended to cover all strikes or lock-outs relating to industrial establishments which orginally gave rise to the dispute which had been referred to a Tribunal or to Conciliation authorities.

The main arguments which appealed to the learned Judges were based on the presence in clause (*c*) of section 23, and the absence in clause (*a*) and (*b*) of the same section, of the words " in respect of any of the matters covered by the settlement or award ". The contention of the Advocate-General, that if it had been intended to limit the operation of section 23, clauses (*a*) and (*b*) to strikes arising out of matters pending before the Tribunal, words similar to those found in clause (*c*) would have been added to those clauses, was upheld. Another argument which was adopted in favour of the view taken by the learned Judges was that the object of clauses (*a*) and (*b*) of section 23 was to ensure an atmosphere of calm and peace during an adjudication upon an industrial dispute; " all disputes are forbidden in order to ensure a calm atmosphere for the adjudication upon the disputes which have been referred ".

15. There can be no doubt that the interpretation put on section 23 of the Act by the learned Judges of the Calcutta High Court is entitled to the greatest respect from this Tribunal; but unfortunately we have not both been able to take the same view as the said High Court. While one of us has accepted the reasoning of that Court, the other Member has found himself constrained to take the contrary view mainly for the following reasons.

16. We have to bear in mind that the legislature, by enacting section 23, wanted to curtail the right of workmen to strike a right recognised but sought to be circumscribed also in section 22. Such a provision must be strictly construed and if its language be not unambiguous and be capable of an interpretation in favour of the existing right, such interpretation must prevail over other possible interpretations. The language of section 23 cannot be said to be entirely unambiguous, and in any case certain words like " under the Industrial Disputes Act ", must be inserted in clauses (a) and (b) after the words " proceedings " to bring out their complete and precise meaning. Secondly, certain anomalies would result if the interpretation of the Calcutta High Court is given effect to, for instance in the case before the High Court the accused were found guilty because certain proceedings relating to a dispute in the Lloyd's Bank had been pending; whereas workmen of other Banks, who had also joined in the same sympathetic strike, could not be similarly proceeded against. If the Legislature, in spite of such anomalies, wanted to stop all strikes during the pendency of any proceedings before a Tribunal they would have been careful enough to indicate this, for instance, by adding such words as " whether or not such proceedings relate to the matter in dispute in the strike or lock-out ". As to the argument based on the interests of peace and quiet, it seems a strong thing to say (so long as all strikes are not prohibited), *e.g.*, where there are pending adjudication proceedings regarding the discharge of a single workman, that the whole body of workmen are precluded from seeking to enforce a general demand, whatever be its importance, by means of a strike where other methods are not likely to prove fruitful. If such was their intention, one would expect that in sub-section (3) of section 10 also they would have adopted the same principle and omitted the words " in connection with such dispute which may be in existence at the date of the reference ". In clause (*c*) of section 23 the principle that workmen should be free to agitate matters outside the award by a strike during the period in which the award is in operation has been recognised. If so, the question arises, should not a similar principle apply to clauses (*a*) and (*b*) of section 123 also.

17. In spite of this difference of opinion regarding interpretation of section 23, however, we are both agreed that the employees in question are entitled to

relief in this case. It is to be noted that the dismissals were not made on the ground or footing that the strike was illegal. As in the case of the strike among the employees of the Lloyd's Bank at Calcutta the management could have got the strikes of March 1949 declared illegal; but this has not been done. The notices to show cause issued on the 19th March to the workmen were based on no ground except their absence from duty and instigating others to remain absent from work although in the notice dated the 10th March reference has been made to section 23 of the Act and in the notice dated the 18th March it had been stated that the management considered the strike to be illegal. In the same notice "all those employees who had been ill-advised to go on strike" were called upon to resume duty on the next day. This shows that the authorities were prepared to condone what they considered to be an illegal strike. In all probability the reason why there was no mention of the illegality of the strike in the notice of the 19th March was that on the 18th March the Industrial Tribunal, Delhi, had accepted the statement of the eight men proceeded against under section 33 of the Act that the March strike was different from the strike which was before the Tribunal. No authority except the Calcutta decision referred to above has been cited before us wherein section 23 of the Industrial Disputes Act has been interpreted and a strike based on grounds other than those which had given rise to a dispute pending before a Tribunal has been held to be illegal. The Union's view seems to have been that the strike, being based on new grounds, was a legal strike, and it probably also held such opinion in view of the ambiguity in section 23 of the Act, and that was probably why the notice to show cause was couched in the language already mentioned. If the management had considered the illegality of the strike as important or relevant they would have said so in the notice or would have got the matter put beyond doubt by prosecuting the strikers, or some of them for participation in an illegal strike. If the management had dismissed the strikers on the ground of illegality of the strike, they could also be said to have unfairly shifted the onus of proving the contrary on a large number of workmen; but in any case this is not what they purported to do. We, therefore, cannot attach much importance, on the facts of this case, to the arguments as to the alleged illegality of the strike.

18. In this case the relation between the employers and the employees was seriously strained. The organization of the strike showed that the employees' union was behind it. The attempt of the Bank authorities to get rid of eight of the strikers under section 33 clearly showed how strongly they resented the activities of the Union. Their notice dated the 18th March shows that they were aware that new demands had been presented to the Director of Industries and Labour. In spite of the proceedings pending before the Delhi Tribunal S. N. Khanna and Gurusarandas Sharma had been dismissed on the 8th January and 22nd December respectively; and the summary of the correspondence between the management and the Union shows other cases of alleged unfair labour practice with regard to several workmen. It would have been better had the Union, having taken their grievances to the Director of Industries and Labour, waited for the result. But their patience appears to have been exhausted and they seem to have felt that a strike (which, in their view, was a legal strike) was the only remedy. On the other hand, the management did not take any one of two possible legal steps: (1) to prosecute the strikers or their ring leaders for having participated in an illegal strike or (2) ask Government to refer the dispute to adjudication. Instead of this they preferred, after giving inadequate notices (as will be shown below), to dismiss a large number of workmen, though they were fully aware that what they described as abstention from work and instigation could be more appropriately described as organised

trade union activity. While, therefore, we are unable to approve of the conduct of the strikers, we are also unable, in view of the atmosphere and psychological background which was largely the creation of the Bank authorities, to say that the strike was wilfully brought about for insufficient reasons; and we are also of opinion that in the circumstances of this case the management were not justified in dealing with the strikes merely on the footing of their abstention from duty and instigation of one another and dismissing a large number of them on that ground. We are definitely of opinion that the best interests of the industry cannot be promoted by the kind of action which was taken by the management in this case when there was a strong feeling of grievance prevailing among the members of the Union, though they might have been misguided in some of their activities. In this connection we would refer to the following observations which we have made in our Award regarding certain victimisation cases at Calcutta. "The promotion of discipline among the employees is no doubt very desirable and necessary, but it should not be sought to be achieved by unduly harsh measures or an unnecessary show or exercise of power. In the interest of peace and harmony between the employers and employees it seems to us that the bitterness and sufferings caused by the happenings of October 1948 should be now removed as far as possible". That a conciliatory policy should be pursued as far as possible and that any action by an employer which might lead to avoidable bitterness should be withheld when possible is indicated in the Act itself, *e.g.*, in the provision regarding prosecution for illegal strikes or lockouts, regarding which the power of initiating a prosecution has not been left to any party but has been reserved to the appropriate Government. In making the directions that we give below we have borne in mind the principles and considerations mentioned above.

19. Mr. Vedvyas also contended that the men discharged or dismissed by his Bank were no longer workmen as defined in section 2 (*s*) of the Act. That definition is as follows:—

> "'Workman' means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the Crown".

We are unable to accede to this contention. In the first place there can be no doubt that in the present case the dispute had arisen as soon as the strike had commenced, and the ex-employees under consideration were dismissed or discharged during such strike. In our opinion, however, the material question we have to deal with is whether there is any industrial dispute concerning these men and not whether as the present dispute can be said to arise only after the discharge the ex-employees concerned, they can or cannot be said to have been discharged "during that dispute" and to be still workmen as defined in the Act. The expression "industrial dispute" has thus been defined in clause (*k*) of section 2 of the Act:

> "'Industrial dispute' means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person".

It will be seen that whereas the earlier part of the definition speaks of *workmen* the latter part speaks of the connection of the "dispute or difference" with the employment or non-employment or the terms of employment or with the conditions of labour *of any person*. If, therefore, a dispute is raised by a of workmen relating to the employment by their employers of a person who is not yet an employee but whom they seek to get admitted into the employers' service, that would be valid industrial dispute within the meaning of the definition. The view that we are taking is supported by a decision of the High Court of Calcutta (which was upheld in appeal) in which Mr. Justice Sen observed: "Now an industrial dispute need not be a dispute regarding the employment or non-employment or terms of employment or the conditions of the labour of the workmen. Section 2 (*k*) is quite clear on this point. It is true that the dispute must be between employers and workmen but it may relating to employment or non-employment or the terms of employment or conditions of labour who are not workmen. The words in the last portion of section 2 (*k*) are "or any person", whereas in the first (part) of the section the word used is 'workmen'", (Judgment dated September 4, 1947 *in Birla Bros.* v. *Employees' Union*). The case of *R.* v. *National Arbitration Tribunal* (All England Law Reports, 1947, Vol. 2, page 693) dealt with a case in which "workman" was defined as "any person who has entered into or works under a contract with an employer," and it was submitted by counsel for the company that as at the date of the reference due notice had been given to the workmen to terminate their employment and their employment had thereby been terminated, there would be no trade dispute to refer, because there could not be a dispute or difference on any subject between those employers and workmen as the workmen were not in the service of the employers; and he reinforced his argument by reference to the definition of "workman" which he submitted contemplated an existing contract of service so, as he put it, that there must be some contract on which the reference could "bite". Lord Goddard, C.J., said that he was unable to agree with this contention observing, "If effect were given to it, it would mean that any employer, or indeed, any workman, could nullify the whole provisions, of the Order and the object of the regulation under which it was made by terminating the contract of service before a reference was ordered, or even after the matter was referred but before the Tribunal considered it. It is, in my opinion, quite clear that there was here a trade dispute existing at any rate down to the date of the dismissal of the workmen. That is not an issue, and whether the workmen were discharged for the *bona fide* reason that their employers were not willing to accede to their demands is, in my opinion, immaterial. If there was a trade dispute it can, in my opinion, be referred to the Tribunal whether or not the dispute has resulted in workmen being dismissed or in their having discharged themselves."

20. *In Western India Automobile Association* v. *the Industrial Tribunal, Bombay,* the Federal Court, after referring to the definition of "Industrial dispute" in the Act, considered the question whether the said definition includes within its ambit a dispute in regard to reinstatement of dismissed employees. It was observed, "Reinstatement is connected with non-employment and is therefore within the words of the definition. It will be a curious result if the view is taken that though a person discharged during a dispute is within the definition of the word 'workman', yet if he raises a dispute about dismissal and reinstatement, it could be outside the words of the definition 'in connection with employment or non-employment.' 'Any dispute connected with employment or non-employment' would ordinarily cover all matters that require

settlement between workmen and employers, whether those matters concern the causes of their being out of service or any other question".

21. Mr. Vedvyas has also relied on the words "in breach of contract" in section 23. But the contract between the Bank and its employees must have impliedly contained the right of the latter to strike for legitimate reasons. In the context of the circumstances, therefore, we regard this contention as without substance.

22. The Bank is not a "public utility service" and so the prohibition contained in section 22 and the requirement of giving notice to be found therein will not apply. It seems to us that demands on which the strike was based were not unknown to the management. The fact that the President, the Vice-President, the Secretary, the Joint Secretary, members of the General Council, the Negotiating Committee and the Working Committee of the Union, as well as the strike Commander at the Head Office (O.P. Kalra) were dismissed, within the space of three or four days, and very shortly after the Delhi Tribunal had dealt with the Bank's application under section 33, all points in connection of the dismissals with the affected employees' trade union activities. On the 19th March 1949 the following 9 persons:

No. 10 M. C. Vashist,
No. 11 A. S. Chauhan,
No. 13 Yudhisthar Dev,
No. 14 K. K. Benerji,
No. 15 D. P. Bhatia,
No. 16 R. L. Goga,
No. 20 Kali Ram Jain,
No. 21 M. K. Jain, and
No. 22 Tara Chand Jain

were called upon to state by 3 P.M. on the same date why they should not be dismissed for abstaining from their duty and for instigating others to abstain from work. We consider that the time given was inadequate and that this also vitiates the dismissal orders which were passed on the same day, the 19th March 1949.

23. As to No. 9 H. L. Parwana, a notice was served on him on the 21st March requiring him to explain his conduct on the same day. He said that the strike was not illegal and that there had been no instigation. He was dismissed on the same day. In our opinion the time given for explanation was insufficient and this vitiates the dismissal order.

24. On the same day, 20 others were also dismissed. They are the following:—

No. 17 G. L. Seth,
No. 23 Sampat Singh,
No. 25 P. S. Nigam,
No. 27 Lekh Rah,
No. 29 Shadi Ram,
No. 31 Rup Singh,
No. 42 Roshan Lal Jain,
No. 44 Harnarain Kokcha,
No. 46 Narinder Nath,
No. 48 C. B. Dubey,
No. 19 Virender Kumar Jain,

No. 24 Pritam Singh,
No. 26 Guru Datt Gaur,
No. 28 Kishanlal,
No. 30 Khem Chand,
No. 32 Gian Prakash Jain,
No. 43 M. K. Sharma,
No. 45 Raghubir Singh,
No. 47 S. P. Gupta,
No. 49 Basant Singh.

Of these the last eight have returned to the Bank. Except for those eight, in whose cases no findings or directions are necessary, we hold that the remaining employees who were dismissed on the 19th and the 21st March 1949 were victimized. We set aside their dismissal orders and direct that they shall be reinstated in their former places within one month from the date on which this award comes into operation. In view of our finding that we did not approve of their conduct in not awaiting the result of the presentation of their demands to the Director of Industries and Labour we do not think that we would be justified in directing that they should be paid their full pay and allowances up to the date of their reinstatement. We direct that each of them shall be given, within one month from the date on which this Award becomes operative, such pay and allowances as he would have been entitled to, but for his dismissal, during the three months immediately proceeding the date of his reinstatement.

25. In giving the above direction regarding reinstatement we have given due consideration to Mr. Vedvyas's objection to these men's reinstatement, on the ground that they had sent the scurrilous "atom bomb letter" to Seth Dalmia and that men who were capable of such conduct do not deserve to be reinstated. The said letter was no doubt couched in intemperate and even insulting language; it alleged certain facts against Seth Dalmia, but we do not think that it is our business to go into the question of the falsity or truth of the said allegations. Mr. Vedvyas insisted that the Tribunal "must take evidence" regarding the dissemination of the said letter through the union members and the use of the union funds in printing, and publicising it, but we do not think that such a course would have been helpful. So long as Bhattacharya was Secretary of the Union he may have utilized the Union's funds in connection with the letter and he may have found willing members to distribute copies of it to the public. But it is far from clear to us that Bhattacharya was authorised by the Union to send and publish the letter, there being apparently no resolution of the Union on this matter just as there is a resolution repudiating and condemning what he had done. It is, of course, just possible that this resolution, which was apparently not communicated to Seth Dalmia or the Bank, was a piece of make-believe and an attempt on the part of the Union to provide themselves with a defence in the event of the matter going to a Court of law. We do not, on the whole, think that there is any substance in Mr. Vedvyas's argument based on the letter under consideration and we hold that the general rule that a victimized employee should be reinstated should be applied in these cases.

26. Some more cases remain to be considered. We except those cases in which arguments could not be heard or fully heard during our last visit to Delhi.

No. 12. *D. P. Burman.*—He was Joint Secretary of the Union and took part in the strike. On the 23rd March he was asked to show cause by "1 P.M., tomorrow" why he should not be dismissed for abstaining from work. He wanted more time as he got the notice at 1-30 P.M., on the 24th March. Time being given he said that the strike was a justifiable strike and that he had remained away from work as the Bank had called the police on the 21st March and threatened the workmen.

No. 33. *Yog Raj Shah.*—He took part in strike and his explanation was, "I came out at the call of the Union in protest against the calling of the police." Mr. Vedvyas said that he was an officer, having been given a power of attorney with an officer's powers and having been sent to Rawalpindi as Assistant Manager and thereafter kept as a Relieving Officer. It was, however, admitted that he was actually working as a clerk when he was dismissed.

27. Both these cases also appear to be cases of victimization. We give directions in their favour as in the cases of the other dismissed clerks who have been ordered to be reinstated.

No. 18. *Om Prakash Kalra.*—He appears to have been made the Strike Commander at the Head Office. He was appointed on the 11th June 1948 as a probationer. The allegations against him are that he applied for and got sick leave several times, that on more than one occasion he was seen sitting in the Tribunal or a restaurant during such leave; that he used to produce medical certificate from an unregistered practitioner; that he used to be irregular in attendance and to take leave on false pretexts, and that, therefore, his confirmation had to be postponed. It is also alleged that once he, along with others, abused and mobbed a peon of the Bank, snatching away his books and papers and cutting the peons' cycle tyre; that on another occasion he threw stones at a car belonging to the Bank; and that when he was transferred to the Chandni Chowk branch he did not go there, saying that he had fallen ill. A formal charge was made against him, to which he replied that the allegations made against him were false; evidence was recorded against him and he was discharged.

28. Mr. Parwana says that all this is manufactured evidence, as Kalra was an important and active member of the Union. He also points out that in his explanation he denied all the charges, that witnesses were examined against him behind his back and that the medical practitioner who gave him certificate has also certified in Mr. Parwana's own case, when the certificate was accepted.

29. Mr. Vedvyas states that as he was a probationer he could have been discharged even without notice and formal proceedings. In our opinion it would not be safe to regard the allegations made against Kalra as reliable and that for three reasons: (1) though exception is now being taken to the kind of medical certificate he produced, the Bank appears to have accepted it and granted him leave more than once, and it is not clear that he deliberately took leave on false pretexts; (2) when witnesses were examined by the management the evidence does not appear to have been taken in his presence and he was given no opportunity of cross-examining the witnesses; and the peon's statement against him and an allegation that he threw stones at the Bank's car should not have been as lightly accepted as they appear to have been; and

(3) his omission to go to the Chandni Chowk may have been the result of his having really fallen ill; and in any case it was not sufficient to justify his discharge. We are of opinion that as no allegation has been made against his work or efficiency the postponement of his confirmation and his discharge must be attributed, at least mainly, to the prominent part he took in the strike and this must be regarded as a case of victimization. We direct that he shall be reinstated and confirmed within one month from the date on which this Award comes into operation and that he shall be paid, within the same period, such pay and allowances as he would have been entitled to, but for his discharge, during the three months immediately preceding the date of his reinstatement.

(IV) *Punjab National Bank, Ltd.*—

30. *R. C. Thukral*, dismissed from the Meerut branch in 1948. It seems that he was given a power of attorney under which important powers and responsibilities were entrusted to him, including the power to advance the Bank's money, buy silver and gold for the Bank, invest its money, etc. We also found that as a matter of fact he was discharging such duties as removed him from the scope of the definition of "workmen" in the Act. There may be cases in which a Bank, as a preliminary to the dismissal of a clerk, has adopted the expedient of giving him a similar power of attorney or of appointing him as an Assistant Manager for a few days. It would, in our opinion, be necessary to see whether in such a case the incumbent remained to all intents and purposes in the position of a clerk at the time of the termination of his service. We were satisfied that in this case Mr. Thukral was not doing clerical work when he was dismissed. In view of this conclusion we felt, at the time of the hearing, that this was not a case within our jurisdiction. We have, however, since arrived at the view, on the considerations set forth in paragraphs 19 and 20 above, that this case needs further consideration, and we, accordingly give no directions at this stage.

Parshottam Das, clerk, Chandni Chowk Branch, Delhi, dismissed on the 15th July 1949. In our opinion cases of dismissals, discharge or other modes of punishment which have arisen subsequently to the 13th June 1949 but in respect of which no applications under section 33 of the Act have been filed are not matters into which we have jurisdiction to inquire. All that section 33 gives us power to do is to give "express permission in writing" to the Bank concerned to enable an employer to discharge, dismiss or otherwise punish any of his workmen concerned in the dispute before us (except for misconduct not connected with such dispute) during the pendency of the proceedings. It is not for us to initiate proceedings under section 31 in such cases (see section 34). Matters relating to dismissals, etc., which have arisen subsequently to the 13th June 1949 cannot form part of the dispute referred to us, not being matters which had arisen at the date of the reference nor can it ordinarily be said that the emergence of such a case after the said date must have been apprehended by the date of the reference. Such a case would of course fall within our jurisdiction if an employer had given notice of a contemplated discharge, etc., prior to 13th June 1949

even if the said discharge, etc., took place after the said date; for in such a case such discharge, etc., could be regarded as "apprehended" at the date of the reference. We do not interefere in this case.

Pateshwar Singh.—Peon, Central Office, discharged on the 1st August 1949. As the discharge was subsequent to 13th June 1949 we have no jurisdiction.

Swarn Singh.—Godown Keeper, he was discharged on 25th July 1949. For the same reason we cannot interfere.

Dilip Singh.—Manager at Branch Office at Pultighar, Amritsar. He received a notice on the 5th August 1949 and his services were dispensed with later.

Shankar Das Sekri.—Godown Inspector, Central Circle, Head Office, Delhi. His service was terminated on the 29th June 1949.

In these two cases also we have no jurisdiction to interfere.

(V) *Gododia Bank, Ltd.*—

31. *Pannalal Sharma.*—was a clerk in the branch at Barabanki. His grievance is that the Bank has not paid him his salary and travelling allowances for 20 days. He contends that by altering the conditions of his services to his prejudice the Bank has infringed section 33 of the Act. It seems that the Bank declined to pay him his salary and travelling allowance after he had resumed duty at Barabanki on the 24th June 1949. We have no jurisdiction to interfere.

(VI) *Central Bank of India, Ltd.*—

32. *J. C. Khanna.*—Clerk at New Delhi Branch, complains that his increment has been withheld. The increment having become due on 1st July 1949 according to the application, we have no jurisdiction in this case.

C. *Cases of alleged victimization heard at Patna.*

33. These matters were heard at Patna on the 26th September 1949.

Bank of Bihar, Ltd.—

The following two cases arose after 13th June 1949 and we have therefore, no jurisdiction to deal with them:—

(1) *Brijmohan Singh.*—dismissed on the 16th July 1949.

(2) *Ram Babu.*—dismissed on the 23rd July 1949. The third case brought to our notice was that of *Jamnaprasad Singh*, who was discharged on the 9th April 1949 for alleged reasons of retrenchment. He says that he was discharged without notice and he wants reinstatement or at least one month's pay in lieu of notice. The Bank says, that he seems to have been given one month's salary and that if it has not been paid it is prepared to pay it. He, however, joined the Bank in 1945 when he was put in charge of a pay office. In 1948 the office where he was working was closed, after which he was given "relief work" at other centres. When that work also stopped he was relieved of his work. This appears to us to be a case of retrenchment necessitated by the

circumstances, and we, therefore, give no directions except that one month's pay and allowances in lieu of notice, if it has not already been paid, shall be paid to him within one month of the date with effect from which this Award becomes operative.

K. C. SEN,
Chairman.

J. N. MAJUMDAR,
Member.

BOMBAY :

Dated the 19th January 1950.

(Vide *Gazette of India*, Extraordinary, dated February 4, 1950, pages 745—764.)

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 19th February 1950

No. LR-2 (270)/I.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes) in the matter of alleged victimization, wrongful dismissal, etc., in respect of Banking Companies in the Province of Bombay :—

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL

(BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

(1) The Bank of Baroda, Ltd., Bombay,
(2) The Habib Bank, Ltd., Bombay,
(3) The Chartered Bank of India, Australia and China, Bombay,
(4) The Hindustan Mercantile Bank, Ltd., Bombay.

AND

(1) Mr. E. G. Pingulkar,
(2) Mr. S. Z. Kadri,
(3) Mr. F. J. Patel,
(4) Mr. D. G. Gokhale.

In the matter of alleged victimization, wrongful dismissal, etc.

Appearances :

Mr. B. K. Daphtary, for the Bank of Baroda, Ltd.
Mr. Tanubhai Desai, for the Habib Bank, Ltd.
Mr. A. C. Beynon, for the Chartered Bank of India, Australia and China.
Mr. N. V. Phadke with Mr. S. S. Dighe and Mr. G. N. Trikannad, for Messrs. Pingulkar, Kadri and Patel.

AWARD 708

Four cases of alleged victimization were set down for hearing at Bombay in December 1949, *viz.*, those relating to (1) E. G. Pingulkar of the Bank of Baroda, (2) S. Z. Kadri of the Habib Bank, (3) F. J. Patel of the Chartered Bank of India, Australia and China and (4) D. G. Gokhale of the Hindustan Mercantile Bank. The fourth case was allowed to be withdrawn and the first having been heard for one day was also allowed to be withdrawn. The third case had come before the Chairman as President of the Industrial Court, Bombay, and as it was alleged that he had given expression to certain views in connection with the case it was considered desirable that it should be heard by some other Member and was, therefore, not heard by him. The only case that was fully argued on both sides was that of S. Z. Kadri of the Habib Bank.

2. The case of the Bank against Kadri was as follows. He was one of the three ledger keepers in the Savings Bank Department of the Bank, where eleven ledgers were maintained. Besides the routine balancing of the ledgers there used to be, once in a month, what is known as surprise balancing, that is, ledgers were assigned to the ledger keepers for balancing on a day which had not been previously fixed for such work. In April ledgers Nos. 1, 3, 5, 7 and 9 had been thus balanced. On the 19th May 1949 the Sub-Agent of the Mohamed Ali Road branch, Mr. Currim, issued orders that ledgers Nos. 2, 4, 6, 8, 10 and 11 were to be balanced by the three ledger keepers of the Saving Bank Department. Ledgers Nos. 6 and 8 were assigned to Kadri, each of the other two also getting two ledgers to balance. Ledger No. 6 related to 297 accounts and ledger No. 8 to 370 accounts. The work of balancing consisted, mainly, in the jotting down of the balances of the accounts in the balance book, adding them up and seeing that the total balance tallied with the balance to be found in the extract book which is kept by the Accounts Department. In case a mistake was discovered the ledger keepers had to see how the mistake had originated and to rectify the same. Ledger keepers, on ordinary balancing days as well as on days when surprise balancing had to be done, did this work side by side with their ordinary work. The Circular referred to above was signed by Mr. Currim at about 10-30 A.M., and must have gone round to the ledger keepers in question including those of the Current Deposit Department. Formerly in the Savings Bank Department for some months two ledgers had been balanced by one ledger keeper and thus the work should not be considered excessive. On the 19th May, however, Kadri and the two other ledger keepers of the Savings Bank Department made an endorsement at the back of the Circular in question that they were "not in a position to balance two ledgers" as ordered. They were thereupon called by an officer named Broker who took them to the Accountant Mr. Desai. Both of them told them that they should finish the work assigned to them on that day. Thereafter Mr. Currim also sent for them and learnt from the other two ledger keepers—Kokatay and Kogalwala—that they had been forced by Kadri to sign the endorsement. He told them to finish the work on that day whereupon Kadri told him that he "did not want to balance two ledgers." Mr. Currim reminded him that they had done similar work in the past and that they would be paid for overtime work if they had to work beyond 5-30 P.M. Thereupon Kadri said that he did not want to earn overtime and that he was not going to sit in the office beyond 5-30 P.M. Mr. Currim stayed in his office till about 6-15 or 6-20 P.M., when he found that Kadri had already left office and that Kagalwala was still working. He went to Kadri's desk and he found that he had not finished even half the work relating to ledger No. 6 and had not taken up the work of ledger No. 8 at all. On the next day, the

20th May, Kadri's explanation for not finishing the work on the 19th May was called for and he was suspended. The explanation which Kadri gave was not found satisfactory by Mr. Currim and Kadri's services were dispensed with by an order made by him on the 23rd May.

3. The case sought to be made for Kadri was as follows.—Formerly each ledger keeper was not given more than one ledger to balance on any day and to balance two ledgers in one day was physically impossible. On the 19th Kadri left office at 6 P.M., as he had urgent work at home. He, however, noted the time of his departure in the muster roll as 5-30 P.M., because one of the officers, Mr. Rajguru, had given instructions that employees should show that hour as the time of departure, irrespective of the time when they actually left the Bank. The whole case of Kadri is given in the explanation that he gave after the 20th May in which it was distinctly alleged that the three ledger keepers had found great difficulties in balancing two ledgers each on one day, that on the difficulties being pointed out to the Management they were promised that an additional clerk would be posted to the Savings Bank Department, that though this was repeated week after week it was never kept, that in spite of difficulties the ledger keepers went on doing the work of balancing two ledgers, that on the 19th May he explained to the officers concerned their difficulties again, that he did the work to the best of his ability and as far as possible on that evening, leaving office at 6 P.M., that he had not the least intention of flouting or disobeying the orders of his superiors and that his desire was to bring home to them the difficulties experienced by the three ledger keepers. The Bank's reply to this explanation was that he had flatly refused to balance the ledgers and flouted the orders of the superiors and that the tone and the language of his letter bespoke impoliteness and insubordination. This, according to Kadri, amounted to taking an entirely unjustified view because all that he had attempted to show in his explanation was that he and his co-workers were balancing the ledgers under very great difficulties, that the Bank had never kept the promise of supplying an additional clerk and that if the management thought that he had flouted the authority he was really sorry for having given them any cause to think so. According to him the action taken against him must be attributed to the active part he took in the affairs of his Union; otherwise the extreme step of terminating his services would not have been taken by the management.

4. On behalf of the Bank it was pointed out that certain statements made by Kadri in his evidence were incorrect, for instance, when he applied for an appointment in the Bank he had stated wrongly that he had business at Ahmedabad, when, as a matter of fact, he was doing business at Bombay, and once he had sent his resignation for alleged reasons of health, when he stated in his evidence that his reason for resigning his post was his intention to take up independent business. It was also pointed out that the reason he gave in his evidence for leaving the office at 6 P.M., on the 19th May was that he had urgent work at home, while neither in his letter of explanation nor in the application made on his behalf has it been stated that that was the reason why he had left office at that hour. It was suggested that this explanation was an afterthought.

5. On the other hand, several statements have been made by Mr. Currim which, according to Mr. Phadke who appeared for Kadri, were either deliberately false statements or grossly inaccurate allegations. Mr. Currim said that on the 19th May he kept a watch on the movements of the ledger keepers and noticed Kadri leaving office at 5-30 P.M., and that half an hour later he himself saw that not even half of the jottings of ledger No. 6 had been written

down. This statement is inconsistent with what was stated in his letter to Kadri, dated the 20th May, namely, that he had been observed by Mr. A. C. Broker on the 20th that he had not completed ledger No. 6. Here there was no statement that he himself had seen ledger No. 6 and that this inspection had been made on the 19th and not on the 20th May. Secondly, the case sought to be made out in the written statement of the Bank was that on the 19th May not only the jottings but also the totalling and balancing had to be done on the same day, while in the evidence given by Mr. Currim it was stated that only jotting of the two ledgers had to be done on that day. This is a patent incongruity and Mr. Currim has not been able to explain it. He has admitted that Mr. Bijoor, Deputy General Manager of the Bank, who signed the written statement had got all the information regarding this case from him and from the relevant papers. Thirdly, according to Mr. Currim he signed the Circular on the 19th May at about 10-30 A.M., and the practice of the ledger keepers was to start making the jottings in the morning, correcting some of them later on if any transactions relating to the jottings already made took place on that day. On the 19th May there was such a transaction, *viz.*, a debt of Rs. 195 relating to ledger No. 6, the hour at which the voucher relating to the transaction was posted being shown as 3-30 P.M., and the folio number being given as 53. There can be little doubt that in the course of the jotting that folio would be reached before 3-30 P.M., if the work of jotting had commenced in the morning, and that, therefore, according to the practice stated by Mr. Currim, the entry made in ledger No. 6 relating to the relevant account would be found scratched out and corrected. But, as a matter of fact, it is found that none of the jottings made relating to ledger No. 6 were scored out on the 19th May. According to Kadri he received the Circular at about 3 P.M., and he began the work of jotting at about 5 P.M.; this statement accords more with the facts than the case sought to be made out on behalf of the Bank. Fourthly, Kagalwala has said that on the 19th May he stayed in the office till about 7-30 P.M., though he wrote 6 P.M., as time of departure on the muster roll. Mr. Currim himself said that he saw him working till 6-20 P.M., yet we find that the time of Kagalwala's departure given on the muster roll is 6 P.M. Both Kadri and Kagalwala (the latter having been called as witness of the Bank) have stated that Mr. Rajguru had told them to show an earlier hour as the time of departure. This hour, according to Kadri, is 5-30 P.M., and according to Kagalwala 6 P.M. Most of the entries in the muster roll show 5-30 P.M., as the time of departure of the clerks. This renders the statement of the two ledger keepers very probable that they were instructed by sombody in the office to note an earlier hour than the actual time of departure in the muster roll. If that was so, it is extremely probable that Mr. Currim must have known that such instructions had been given. Mr. Currim, however, has said that he was unaware of any such instructions having been given. Fifthly, according to both the ledger keepers who were examined the management had promised an additional hand for the Savings Bank Department to assist the work of the three ledger keepers, there having been formerly five ledger keepers in the department. This was denied by the Bank but though this statement was made expressly in Kadri's explanation when he was called upon to explain his conduct, in the reply given by the Bank there is no mention or denial of the statement. It has, further, been admitted by Mr. Currim that formerly up to about December 1948 the ledger keepers used to be given only one ledger to balance and that thereafter each of them had to do work in respect of two ledgers, when the number of ledger keepers was reduced from 5 to 3. It seems very likely that there were protests from ledger keepers and this is rendered more probable by the fact that on the 19th May the three ledger keepers signed an endorsement stating that they would not be in a position to balance two ledgers each.

Kagalwala who, as we have already stated, was examined on behalf of the Bank, also has spoken about the promise made by the Bank to supply an additional hand. It seems to us extremely probable, in view of these circumstances, that such a promise was made by the Bank. Sixthly, according to Mr. Currim both Kokatay and Kagalwala told him on the 19th May that they had been forced by Kadri to sign the endorsement and that he took a serious view of the matter; yet no mention of this matter is to be found either in the Bank's letter addressed to Kadri on the 23rd May or in the Bank's written statement, and the action taken was not based on this ground. It seems probable, therefore, that there is no foundation for the statement made by Mr. Currim on this point. Seventhly, Mr. Currim has said that he had no knowledge of the part taken by Kadri in Union activities. If he found both Kokaty and Kagalwala alleging that they had been forced by Kadri to sign the endorsement it would be extremely probable that he would enquire how Kadri had come to acquire so much influence over them, and he would at least suspect that this influence was derived from his connection with the Union's activities. Kadri's connection with the Union has not been denied, and it seems very improbable that he did not know of this connection. Eighthly, Mr. Krishnamurthy, an Assistant in the Indian Bank, Bombay Branch, who was examined on behalf of the Bank, has stated that usually in his Bank the balancing work starts at 3 or 4 P.M., and goes on till 6 P.M. It seems highly probable, that such was the practice in the Habib Bank also; this seems to be indicated by the small number of scorings or scratchings in the jottings in such ledgers that were balanced as have been examined by us. The statement of Mr. Currim that this work begins from the morning thus appears to be somewhat improbable. Ninthly, Mr. Currim had said that when he went to inspect Kadri's work on the 19th May he found that not even half of the ledger No. 6 had been written. On looking at the jottings made in the said ledger, it is however, found that all of them are in Kadri's handwriting and it seems, therefore, that Kadri when he left office had finished all the jottings in that ledger, though Kadri seems to have adopted the Bank's statement for his own purpose, *viz.*, in order to show that the work was excessive. It seems very unlikely that Kadri, who received the letter by which he was suspended and whose explanation was called for on the morning of the 20th, did any work on ledger No. 6 on that day.

6. The Bank has called two Assistants, one from the Central Bank of India and the other from the Indian Bank, Bombay Branch, to show that the work assigned to the three ledger keepers was not excessive. The Assistant of the Central Bank had stated that the practice in his Bank is to give two ledgers to each ledger keeper to balance, while the Assistant of the Indian Bank has stated that in his Bank only one ledger is given to a ledger keeper. It has been admitted that from about December 1948 two ledgers began to be given to each ledger keeper and that the number of ledger keepers was also reduced about the same time. We have already stated that this would normally evoke protests from the ledger keepers; and it is, therefore, very probable that in order to keep them quiet the Bank promised that one more hand would be given to assist them. If such promise was not kept that would constitute a legitimate grievance for the ledger keepers. If that was so, the case set out in Kadri's explanation and the case sought to be made out in the statement of the Federation of the Bank Employees, appears to us extremely probable. Of the two versions we would regard this case as the true one because otherwise it is difficult to account why all of a sudden Kadri would decide to flout the authority of the management and not to do the work which he had been doing regularly in the past. The case for the Bank is based on the argument that the balancing work was part of the normal duties

of a ledger keeper and that as the work that was assigned was not done it constituted disobedience on the part of Kadri. But as we have already stated, the case which was set out in Kadri's explanation appears to be true and should have been duly considered by the Bank. That was not done, and it seems to us that the charge against him of deliberate or wilful disobedience and impoliteness has not been substantiated. In spite of the apology given by Kadri in his letter that apology was not accepted by Mr. Currim. That the endorsement which was signed by the three ledger keepers was not liked by Mr. Currim is shown by the fact that he scored out in red pencil Kagalwala's signature himself. That being so, it seems unlikely that he did not enquire of Kadri's connection with the Union or that he did not know it. According to both Kadri and Kagalwala, after two ledgers began to be given to them they could not finish the work on the first day and used to come early on the next working day to complete the work. It seems to us that this is very probably what used to take place. If Mr. Currim found out even on the morning of the 20th May that Kadri had not finished his work and if he wanted to use it as a pretext, he would certainly give the letter of 20th May to Kadri as soon as, or very shortly after he appeared at the Bank on that day. In our opinion the discharge of Kadri was not really for not finishing the work but must have been based on ulterior reasons, and this, therefore, is a genuine case of victimization. The *mala fides* of the Bank is shown in paragraph 5 of its written statement which was signed by Mr. Bijoor, who, according to Mr. Currim, fully knew the practice obtaining in the Savings Bank Department. There a deliberate attempt has been made to suggest, contrary to what seems to have been the practice, that not only jottings but also the work of totalling and the comparing of totals was to be done on the first day. Again, at the hearing it was said that even if Kadri was reinstated he might be one of those who would have to be retrenched by the Bank. Such a statement was unnecessary for the purposes of the hearing and suggests a distinct animus against Kadri on the part of the Bank authorities.

7. It was suggested that this was a case of discharge under standing order No. 20 for which no elaborate procedure, as laid down in the case of misconduct, has been prescribed and that the Tribunal has no jurisdiction or right to go elaborately into the facts. We cannot accept this argument, for the Tribunal has to see whether the discharge is a case of just or unjust discharge, that is, one justified by the facts. It seems to us that in this case the proper order would be that Kadri should be reinstated with effect from the date on which he was discharged and that he is entitled also to such emoluments as he would have earned if he had not been discharged. We direct accordingly.

K. C. SEN,
Chairman.

J. N. MAJUMDAR,
Member.

BOMBAY,
23rd January, 1950.

S. C. AGGARWAL, *Dy. Secy.*

(Vide *Gazette of India*, Part I, Section 1, dated February 18, 1950, pp. 242—245.)

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MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 7th February 1950

No. LR-2 (271)-I.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes) in the matter of alleged victimization, wrongful dismissals, etc., in respect of Banking Companies in the Uttar Pradesh.

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Central Bank of India, Limited,
United Commercial Bank, Limited,
Calcutta National Bank, Limited,
Punjab National Bank, Limited,
Allahabad Bank, Limited,
Central Calcutta Bank, Limited,
Bharat Bank, Limited,
Hindustan Commercial Bank, Limited,

AND

Their workmen.

In the matter of alleged victimization, wrongful dismissal, etc., in the United Provinces.

Appearances :—

Mr. B. N. Khanna, Advocate, with Mr. H. C. Captain, for the Central Bank of India, Ltd.

Mr. D. R. Patney, for the United Commercial Bank, Ltd.

Mr. B. N. Khanna, Advocate, with Mr. Mitra, for the Calcutta National Bank, Ltd.

Mr. R. N. Seth, for the Punjab National Bank, Ltd., and the Bharat Bank, Ltd.

Mr. B. N. Khanna, Advocate, for the Allahabad Bank, Ltd., and the Hindustan Commercial Bank, Ltd.

Messrs. J. N. Mehrotra, K. C. Gupta, A. C. Kakar, Harmangal Prasad, S. D. Misra, Padamchand, K. N. Mehratra, Hukumchand and R. M. Tandon, for the U.P. Bank Employees' Union.

AWARD

The Cases dealt with in this Award were heard at Lucknow from the 20th December 1949 to the 24th December 1949.

Central Bank of India, Ltd.— 7 14

There were five cases in none of which any order is called for. In the case of *Tapeshwari Prasad* on materials having been furnished, Mr. Mehrotra on behalf of the U.P. Bank Employees' Union did not press this case, and in two other cases, *viz.*, those of *Balkrishna Aurora* and *Ram Autar*, the dismissals took place after the 13th June 1949. In the case of *Kadam Singh*, Chowkidar, the demand has been withdrawn, which was also done in the case of *K. S. Srivastava*, on his dues being paid by the Bank.

United Commercial Bank, Ltd.—

The two cases of *Nanhey*, Chowkidar and *D. L. Kulshrestha* are cases of wrongful transfer and dismissal which admittedly took place after the 13th June 1949 and, the Tribunal therefore, is not competent to make and does not make any order.

The two cases of *Lalu Singh* and *Rama Nath*, who were Chowkidars of the Kanpur branch of the Bank, are taken up together. Lalu Singh was appointed on 9th July 1945 and Rama Nath on 14th March 1945. They were dismissed on the 21st February 1949 after payment of a month's salary in lieu of notice. The Bank's case against these two persons is as follows: Rama Nath left the station and absented himself without permission in August 1948 for four days. He arranged with Lalu Singh to get him marked present in the Attendance Register. When this fact came to the knowledge of the Manager he made enquiries from Lalu Singh but he made a false statement that Rama Nath had been on duty. Balak Ram, another Chowkidar, stated that Rama Nath had left the station on the 6th August 1948 and his statement was corroborated by the Jamadar and other peons. The Bank was satisfied on enquiry and decided to dismiss both of them for their irresponsible and dishonest conduct, but it could not do so on account of the limitations imposed by the U. P. Government by the Labour Department Orders, No. 4692-(S.T.)/XVIII-142 (S.T.)-1948, dated 31st July 1948 and No. 5890-(S.T.)/XVIII-142 (S.T)-1948, dated 23rd September 1948, under which no Bank employee in the U.P. could be dismissed or discharged without the express permission in writing of the Labour Commissioner. The matter came up before the Labour Commissioner and his Inspector warned them and requested the Bank authorities to keep them in service. The Bank could not agree and, therefore, the General Manager Mr. Thakur discussed the matter with the Labour Commissioner on the 19th February 1949 and the latter accorded permission. No document showing any express permission in writing has been produced but a letter written on behalf of the Labour Commissioner being letter No. 4882, dated 7th March 1949, has been produced by the Bank which states that permission for the dismissal of these people had already been accorded. The letter does not show that any such permission was accorded in writing. The Bank in its statement while referring to the said U. P. Labour Department order, did not indicate that "express permission in writing" was required. It merely mentioned that the permission of the Labour Commissioner was duly obtained. The statement obviously was a misleading one and on being questioned Mr. Patney for the Bank expressed his regret for the omission due to carelessness. We cannot but strongly condemn this kind of carelessness but we are unable at the same time to hold that it shows any *mala fide* intention. The letter No. 4882, dated the 7th March 1949 by itself does not satisfy the requirement of the aforesaid Government orders and we must hold, in the absence of the production of any writing, that no express permission in writing was given and that the said orders have been contravened. The aforesaid orders regarding discharge or dismissal were, however, cancelled

by the Labour Department Order, No. 1912-(S.T.)/XVIII-142 (S.T.)-48, dated 18th April 1949. As on the merits of the case we feel that these are not cases of victimisation but of a mere technical breach of the Government orders, and that the two employees in question were fully aware of the charges against them and were given an opportunity to explain their conduct, we think that the ends of justice would be met if the Bank only pays the salary of these two men up to the 18th April 1949, *viz.*, the date of the publication of the said order, and we direct accordingly. The amount should be paid within a month of the publication of this award.

Calcutta National Bank, Ltd.—

K. B. L. Saxena of the Lucknow Branch :

This is a case of alleged wrongful dismissal which was pending before the Provincial Adjudicator and was referred to this Tribunal by the Central Government's Order No. LR-2(233)/11, dated 12th October 1949. He was employed on 1st September 1943 as an apprentice and on the 1st of January 1947 his salary was Rs. 80 per month, his post being that of a Sub-Accountant. By its letter dated 19th May 1947 the Bank informed him that in accordance with the award of the Labour Commissioner (Mr. B. B. Singh) his salary was fixed at Rs. 60 *plus* Rs. 20 (D.A.) with effect from 15th March 1947. This letter was addressed to him as K. B. Lall Saxena, Assistant, Aminabad Branch. By his letter dated 30th May 1947 he expressed surprise at the change of his designation and enquired if it was a clerical mistake. No reply was sent to his letter but an order was made on 19th June 1947 for his transfer from Lucknow to the Central Office at Calcutta with effect from 7th July 1947. This letter was received by him on 26th June 1947. He was arranging to go but fell ill and absented himself from the Lucknow Office on the 2nd, 3rd and 4th of July. He attended on the 5th July but again fell ill and on 6th July 1947 he applied with a medical certificate for one month's privilege leave on the ground of illness. The medical certificate shows he was suffering from bronchitis with fever and cough and therefore it was not possible for him to join on the 7th of July at Calcutta. The leave was not granted and the Bank terminated his services on the 19th July 1947 with effect from 7th July 1947 for failure to comply with the order asking him to join the Central Office. He is an active member of the Union and it is urged that he has been victimised on account of his Union activities. He claims reinstatement as well as salary from 1st July 1947 to 7th July 1947 with dearness allowance, six months' salary from the date of his dismissal at Rs. 120 per month and Rs. 800 towards his pension. On behalf of the Bank it was denied that any leave application as alleged by him was received, but when the acknowledgment receipt was produced, it was admitted that the application had been received and forwarded to the Head Office for orders. The Bank in its statement states various reasons for his dismissal and some of them are that he is a troublesome element and not loyal, that he made bogus entries in a register, and that his work was unsatisfactory; but in the letter of dismissal from the Bank only his failure to comply with the Head Office order asking him to report for duty at Calcutta is shown as the cause of his dismissal. It does not appear whether the Bank took any pains to enquire into the correctness of his allegation of illness which was supported by the certificate of a doctor. The argument of the Bank, that he did not take any steps after his dismissal and as such he had no complaint is disproved by the representations made by him on the 4th and 6th August 1947 to the Labour Commissioner complaining about his dismissal. In its letter to the Labour Commissioner on the 11th September 1947 the Bank stated that from reports

received from private source the Head Office of the Bank began to suspect that he was a person who should not be retained in the service of a Bank. From this reply alone it is clear that the real cause of his dismissal was not what was alleged in the letter of the 19th July but something else; it was probably his union activities. It does not appear that Saxena was told anything about the alleged reports or the reasons for the Bank's suspicion about his loyalty, etc. In the circumstances we think that this should be regarded as a case of victimisation. We, therefore, direct his reinstatement and payment of his salary of at Rs. 60 for the period from 1st July 1947 to 7th July (*plus* dearness allowance at Rs. 20 per month) and for the next six months. We further direct that such payment as well as reinstatement shall be made within a month from the date of the publication of this award.

Punjab National Bank, Ltd.—

S. S. Katyayani of the Gorakhpur Branch :

The case is withdrawn on the Bank's undertaking to consider his claim sympathetically.

Shanti Swarup Jain of the Shahjahanpur Branch :

His case is that he fell ill in January 1949 and applied for leave on medical grounds. He was asked to join duty on 21st March 1949 but on account of the state of his health he could not join and he explained his inability to the Bank. He did not get any reply. When he became fit on the 19th of July 1949 he wanted to join but he was not allowed to do so. The Bank's case is that he joined as a probationer in 1946, that his work was unsatisfactory, that even after the period of probation of 12 months was over he was given six months more to improve but that he did not and that therefore his services were terminated by giving one month's notice. He brought this matter before the Labour Commissioner and the Bank agreed to re-emply him and pay him three months' salary by way of relief and he was re-employed. On 6th November 1948, he was posted at Shahjahanpur. He did not join but applied from time to time for leave. He was absent from his work for six months and out of which for four months he submitted no application for leave; and when he wanted to join in July 1949 the Bank refused to allow him to join. He made a representation to the District Manager, Eastern Circle, who permitted him to join at Shahjahanpur but he did not join there. He is working at present in S. S. Vidyalaya, Hathras. He was asked again by the Manager on 4th October 1949 and 15th October 1949 to join within a fortnight but he did not do so. It seems clear that this is not a case of victimisation and no order need be made.

Munshi Lal, Chowkidar, Aligarh Branch :

His services were terminated after 13th June, 1949. We, therefore, make no order.

Binayak Pershad :

He was an Accountant at the Arrah branch. He joined service on the 30th August 1928. His complaint is that on 1st July 1948 he was made to retire. His age is 55 but he claims that he is still fit for work. He represented his case to the Head Office and to the Labour Commissioner but did not get any relief. The Bank has granted him three months' salary as gratuity. Mr. Mehrotra admits that this is not a case of victimisation and, therefore, no order need be made.

C. P. Misra of the Gorakhpur Branch:

He is a Daftary. Mr. Mehrotra admits that this is not a case of victimisation. There is, therefore, no need to make any order.

Ram Vilas Misra :

He is a Brahmin peon who complains he was asked to wash "jhutha pots" in contravention of the terms of his service. The Bank having agreed to settle the matter, no order is now asked for.

Allahabad Bank, Ltd.—

Badri Narain Misra of the Gorakhpur Branch :

His complaint was about his demotion and non-confirmation. By his letter dated 14th December 1949 he withdrew his complaint and did not press his case before us. No order need therefore be made.

Viswanath Upadhyaya of the Faizabad Branch :

He was working at Faizabad for 4 years as clerk-in-charge. In August 1948 he was promoted to the grade of supervisors and got the higher grade salary with retrospective effect from 1st January 1947 in the scale recommended in the award of Mr. B. B. Singh, *viz.*, Rs. 120—8—200—10—300. The provident fund deduction was made on the salary of that grade. In June last he was informed that he was to get a salary as an ordinary clerk and for two months was so paid. It is contended on his behalf that having regard to the terms of the said award he should have been confirmed in the grade mentioned above. On behalf of the Bank it is said that clerks-in-charge are not head clerks or supervisors or departmental in-charges and as such not entitled to the scale of pay recommended by Mr. B. B. Singh, that having regard to the fact that the position of a clerk-in-charge had not been decided by any Tribunal, the Bank agreed to place such clerks on the special scale at the suggestion of the Labour Commissioner and that therefore it became necessary to reorganise the cadre of such clerks and fill the appointments with more senior employees. He was, therefore, granted an officiating allowance representing the difference between his basic salary and dearness allowance and the minimum of the special grade with effect from 1st January 1947. In June he was replaced by a more senior clerk in the post but he was paid the salary of the special grade by mistake; rectification was made and Bank did not ask for a refund. It has been pointed out on his behalf that his salary up to May 1949 was Rs. 136 and by reason of the reversion he is getting only Rs. 83, and that there are cases in which persons junior to him and getting lower salaries were put in the special grade of Rs. 120. This is not disputed by the Bank, and no reason has been assigned by the Bank for his anomaly. The argument advanced on behalf of the Bank that seniors were given priority, therefore, does not appear to have substance, and in the circumstances we see no reason why this employee should not continue to get the salary of the senior grade as he was getting before. We, therefore, direct that he should be given the special grade salary and be confirmed in that grade with effect from the time when the alleged rectification was made. The reinstatement should be made and the amount due to him should be paid within a month of this award becoming effective. In making this order we do not decide at this stage what the status of the clerks-in-charge should be in this establishment.

Jiyalal Sharma of the Meerut Branch :

He has put in 23 years' service and his salary was Rs. 160 *plus* dearness allowance Rs. 40 per month. On 15th March 1947 he was working as a head clerk at the Hathras Sub-Agency, and under the Award of Mr. B. B. Singh he was entitled to be put in the departmental in-charge's grade, that is, Rs. 120—8—200—10—300. The Bank states that on account of his reported unsuitability for the post it was decided to replace him and arrangements were made on 13th February 1947 for his transfer to Meerut as an ordinary clerk; and that he was in fact relieved on 19th March 1947 from the Hathras Sub-Agency. His case came up for consideration before this Tribunal on 20th September 1949 at Delhi and it appears from the minutes of the Tribunal that this was then considered to be not a case of victimisation. This case is similar to the case of Viswanath Upadhyaya and for reasons similar to those stated in that case as also for the reason that no particulars were furnished to him or to us about his alleged unsuitability for the post we direct that he be put in the departmental in-charge's grade with effect from the date on which he was reverted to the post of an ordinary clerk. The reinstatement should be made and the amount due to him, if any, should be paid within a month of this award being effective.

Prahlad Das Seth of the Agra Branch :

He is alleged to have been wrongfully dismissed on 3rd May 1949 without any reason being assigned or his explanation being called for. He was appointed a cashier in 1946 and confirmed in that year. The Bank states that his work was not satisfactory and the Bank's Treasurer who gave a guarantee for him withdrew his guarantee and that the Bank, therefore, terminated his services after giving him a month's salary. By their letter of the 11th January 1949 the Bank asked the permission of the Labour Commissioner to terminate his services and by a letter No. 4414/I.R. (1) 41, dated the 14th February 1949 the Labour Commissioner granted permission for terminating his services. In the circumstances, we do not interfere.

Central Calcutta Bank, Ltd.—

Raghuraj Singh of the Bareily Branch :

He was a Head Clerk in the Rai Barelli branch from 1945 up to the 31st December 1947 at a salary of Rs. 65, although under the Award of Mr. B. B. Singh he was entitled to Rs. 75 and in January 1948 he should have been entitled to draw Rs. 80. He applied for such increment and he was transferred to Bihar at a time when the Notification No. 4692 (S.T.) /XVIII-142 (S.T.) -1948, dated the 31st July 1948, preventing transfers without the express permission in writing of the Chairman of the Conciliation Board was in force. He says that this was done with a view to avoiding the application of the award in his case. He was retrenched on 4th April 1949. The Bank has not appeared and Mr. Mehrotra states that the Bank is reported to have suspended payment. There is no order before us to show whether the Bank is still functioning or has been wound up. In the circumstances we make the order that the transfer order to Bihar shall be cancelled and that he shall be transferred back to the U. P. where the Award of Mr. B. B. Singh is in operation and be entitled to get the salary provided under the Award. This should be done within a month of the Award being effective.

Bharat Bank, Ltd.—

J. N. Mehra of the Allahabad Branch:

He was an employee at the Allahabad branch since 1943. It is alleged that he was an active member of the local Trade Union and as such along with two others represented the case of his co-workers before the Labour Commissioner, U. P., and that on account of this he incurred the displeasure of the management who transferred him to Udaipur without assigning any reason and terminated his service on the 20th November 1947. The Bank in its statement filed on the 17th December 1949 does not specifically deny the allegations made by him but states that at first his work was unsatisfactory but that afterwards he showed signs of improvement and the management promoted him to the post of an Assistant Accountant in December 1946. He was at Allahabad but at that time the necessity for abolishing one of the two posts of Assistant Accountants was felt and he being the junior it was decided to transfer him from Allahabad and as a post of an Assistant Accountant fell vacant at the Udaipur branch he was transferred there with a view to promoting him to the post of Accountant. This order was made on 7th July 1947 and immediately on receipt of this order he applied for 3 weeks' leave on the ground of his wife's illness. The Head Office declined to grant this leave and he was informed telegraphically to that effect but as he did not comply with the order his conduct, it is alleged, was viewed with disfavour by the Management. He was served with a notice to join duty on 30th July 1947 at Udaipur which he did on 1st August 1947. His services were terminated on 20th November 1947 on payment of three months' salary in lieu of notice according to the conditions of his service. The Bank has taken the objection that as he was a permanent member of the branch of the Bank in the Udaipur State at the time of the termination of service, this Tribunal has no jurisdiction to interfere in his case. We over-rule this objection because the dispute really arose with the order of transfer. It appears that in compliance with the notice to join duty on the 30th July 1947 he did not join on that date but joined on 1st August 1947. Nothing has been produced on behalf of the Bank to show that any explanation was called for as to the delay of two days in joining his duty; and if this was the ground on which his service was terminated it is difficult to see why his services were terminated so late as the 20th November 1947. If, on the other hand, his flouting of the Head Office's orders and continuing to remain absent from duty was the ground for the termination of his service, it is not clear why he should have been asked to join duty by the 30th July 1947; that order suggests that the management condoned the alleged flouting of their orders. It seems to us that the reason assigned by the Bank is not the true reason for terminating his service; the true reason may properly, in our opinion, be held to be his union activities. It is stated by him that this is a test case and he has not asked for any specific relief. On enquiry we came to learn that only lately, *i.e.*, on 12th December 1949 he has succeeded in getting a job after nearly about 2 years of unemployment. He is, however, willing to join this Bank. We, therefore, direct his reinstatement if he be still so willing, within two months from the date on which this award becomes operative, and we further direct payment to him, within a month from such date, of his pay and allowances for six months immediately prior to his reinstatement.

Parmeshwar Din Misra of the Kanpur Branch:

He joined the Nayaganj branch as a Sub-Manager on 1st June 1944 and continued to be there up to 7th April 1947. He was promoted to the next

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higher grade for his efficient services on 8th April 1947 and posted at the Meston Road sub-branch where he performed double duties without any extra remuneration. There was a difference of opinion between him and the Manager Shiva Nand under whom he was working over certain matters which ended in his refusal, it is alleged, to file a false affidavit in connection with a case relating to the Nayaganj Branch Office. He was thereupon, it is alleged, wrongfully transferred from Meston Road to Delhi on 6th August 1948 without obtaining the permission required by the Notification of the U. P. Government No. 4692, dated 31st July 1948, during the period of his convalescence after illness. This matter was referred to the Conciliation Board and his transfer was cancelled. He became ill and wanted leave but the Manager Shiva Nand refused to grant him leave and his services were terminated on 11th January 1949 again without obtaining the express permission of the Provincial Government. His designation was that of a Sub-Manager but in fact he was a workman having no power of an officer and he has been held to be so by Mr. R. S. Nimbkar, Chairman of the Conciliation Board and also so recognised by the Bank itself by seeking permission of the Labour Commissioner for terminating his service. It has also been contended on his behalf that even if he be considered to be an officer there can still be an industrial dispute and in support of the contention reference is made to *Western India Automobile Association v/s Industrial Tribunal, Bombay*, reported in Vol. 36, Federal Court (August 1949), page 111. He has claimed various reliefs, *viz.*, reinstatement with full pay of Rs. 200 with increments of Rs. 60 (because he did not get any such increments) *plus* dearness allowance of Rs. 20 and house allowance of Rs. 30 from the date of the notice of the termination of his service, *i.e.*, 8th January 1949, payment of Rs. 131-12-0 as conveyance charges and Rs. 3,500 for debts which he incurred for being out of employment. No reason having been assigned for the dismissal and no explanation having been called for, it has been contended that he is entitled to reinstatement as a matter of course, such dismissal being against the principle of natural justice. The Bank's case as disclosed in its statement is that in 1948 it was discovered that he was overcharging the Bank in respect of the conveyance allowance due to him, and that, therefore, he was transferred to Delhi. This case was referred to the Conciliation Board and at the suggestion of the Conciliation Officer, he was kept as a Relieving Officer at the Kanpur branch but he did not join there. On 4th September 1948, 11th September 1948, 18th September 1948, 18th October 1948 and 18th November 1948 he made applications for leave and it appeared to the Bank that either he was not willing to work unless he was given charge of an independent officer or his health had been too much impaired. In the Bank's letter dated 8th January 1949, however, no such reasons were mentioned but it has been contended by the Bank that it was not necessary to mention any ground so long as a month's notice was given in lieu of salary. The matter of his dismissal came up before the Labour Commissioner as will appear from a letter dated the 13th April 1949 addressed by the Bank to the Labour Officer at Kanpur wherein it is stated, " We now propose to withdraw the dismissal order of Shri Misra and would instruct Shri Misra to resume his duty at Nayaganj Kanpur Branch. But as soon as he resumes his duty we will be serving a Charge Sheet on him calling for his explanation on certain points. But in the meantime as soon as the Charge Sheet is served on him we beg to seek your permission to suspend him. The first condition of the Charge Sheet would be that he is to give the replies of the points raised therein within 4 days of the receipt of the Charge Sheet. A copy of the Charge Sheet along with the replies of Shri Misra would be duly conveyed to you for your decision". The Labour Officer, therefore, recognised that the dismissal without any reason being assigned therefor

or an explanation being called for could not be justified. There is nothing in the record to show what happened after the letter of the 13th April was written. Apparently the order of dismissal was not withdrawn. This order of dismissal, in our opinion, is clearly wrongful, as he had no opportunity of offering any explanation to the Bank in respect of the matters alleged in the Bank's statement that influenced its decision to terminate his serivce. Apart from that it is not improbable that the real reason is his misunderstanding with the management and his approach to the Labour Commissioner. The objection of the Bank that he is an officer does not appear to us sustainable. Although his designation was that of a Sub-Manager he alleged that he had no duties and responsibilities of a directional or controlling nature and in his application he has given particulars to substantiate this allegation; and the Bank in its statement has specifically dealt with all his allegations but left undenied this allegation, merely contenting itself with relying on the designation. In these circumstances we are not prepared to attach importance merely to the designation. We, accordingly, direct his reinstatement and the payment to him of his pay and allowances from the date of his dismissal till reinstatement at the rates at which he was drawing them on 11th January 1949. We further direct that this direction shall be carried out within a month of the award being effective.

Birbal P. Rajbanshi and *Ravi Dutt Kuchal* of the Meerut Branch:

These are cases of wrongful transfers. As they happened after the 13th June 1949, we give no directions.

Madan Lal Sharma of the Hathras Branch:

He was appointed on 9th April 1947 as the chief cashier at Hathras on a salary of Rs. 60 *plus* Rs. 25 as dearness allowance. He was paid the same remuneration as is paid to the Assistant Cashiers. On 14th January 1948 he approached the Labour Commissioner for an increase of his salary under the Award of Mr. B. B. Singh, the minimum pay thereunder to which he would be entitled being Rs. 120. In March 1948 the Labour Commissioner took up the matter. On the 20th March 1948 the Treasurer demanded a security of Rs. 4,000 within a week from the said date because, it was said, "as reported to me several times there was shortage in cash handled by you in the Bank in the course of your duties" and he was informed that in the event of failure he would be obliged to withdraw his guarantee. On the 29th March 1948 he protested against this demand as no such security had been demanded from any one before and said that there had been no shortage in respect of the cash handled by him. In spite of that, however, he offered to give the security of his properties worth Rs. 10,000 or in the alternative to send a cheque for Rs. 500 as further security. But this offer was not accepted and on the 31st March 1948 his services were terminated on the plea that the security required had not been furnished. His case is that his services were terminated because the management was annoyed by reason of his approach to the Labour Commissioner. The Bank's case is that the Treasurer having wanted Rs. 4,000 security which he failed to furnish the Treasurer withdrew his guarantee and that, therefore, his services had to be terminated, which was done on payment to him of a month's salary in lieu of notice. Various other reasons have been mentioned in the Bank's statement, *viz.*, he was reported to be negligent in his work and unamenable to office discipline. The letter of dismissal of the 31st March was addressed by Mr. Harilal Barman of Messrs. Harilal Barman & Sons, who are the Bank's Treasurers, and not by the Bank, and no reason was assigned therein other than his failure to "give the requisite deposit". It is also stated in the letter,

"I terminate your service and send you a cheque for Rs. 60 on the Bharat Bank representing one month's salary in lieu of notice though as you are my employee you are not entitled to that amount even". Our attention has not been drawn to any instance in the Bank where the cashier is regarded as an employee of the Treasurer. He may give his guarantee to the Bank and on his recommendation he may be employed by the Bank which pays the salary and other emoluments; and it is the Bank that should, therefore, retain the power of dismissal. As far as we know that is the rule everywhere and except in the case of two Banks mentioned in the Report of the Conciliation Board (Banks) in U. P., *viz.*, the Punjab National Bank, Ltd., and the United Provinces Provincial Co-operative Bank, Ltd., there is no evidence to show that any Bank's practice or rule is different. The Treasurer's letter of dismissal appears to us to be an extraordinary piece of document. Mr. Mehrotra has stated that the security of the Treasurer is only for Rs. 4,000 and that, therefore, the demand of a security of Rs. 4,000 from this employee was merely a ruse for the purpose of getting rid of him because he had applied to the Labour Commissioner for increase of his salary. On the facts of this case we have little doubt that the Treasurer demanded the security, withdrew the guarantee and sent the letter of dismissal at the instance of the Bank as a retaliatory measure because of his application to the Labour Commissioner. We therefore, direct his reinstatement as from the 1st April 1948 and the payment to him of the arrears of his emoluments from the date of his dismissal till the date of his reinstatement at the rate of Rs. 60 *plus* Rs. 25 as dearness allowance a month within a month from the date of the publication of this award.

Ghana Shiam Singh of the Roorkee Branch:

He was a clerk in the Roorkee branch. On 15th December 1948 he was asked to show cause why he should not be dismissed for failure to submit an explanation on the charges made in the letters addressed to him dated 13th October 1948 and 15th October 1948. The charges were that he had been absent without leave, that he had been negligent in his duties in that a heap of unfiled papers were found in the drawer of his desk and that he had made false entries in the pass book register. As he refused to submit any explanation the permission of the Labour Commissioner was sought and he was suspended on 15th December 1948 and he was again called upon to explain the charges against him. On 4th January 1949 he submitted an explanation the substance of which is that his leaving the office and not filing the letters and making the entries in the pass book were all done on the verbal permission of the Branch Manager. The Bank considered his explanation to be false and with the permission of the Labour Commissioner his services were terminated. We do not feel that we should make any order in this case.

Hindustan Commercial Bank, Ltd.—

Purnachand Mehrotra of the Allahabad Branch:

He joined as a cashier at Allahabad on 24th April 1947 and his services were terminated on 12th May 1949 without assigning any reason. The Bank's case is that there were three cashiers in the above branch, that for reasons of economy the number was required to be reduced to two and that as he was the juniormost cashier he was paid one month's salary and his services terminated, Mr. Misra on behalf of the employees has contended that if the services of an employee were to be terminated for such reasons, the juniormost cashier in the whole service should be made to go. The Treasurer has to give a guarantee for a cashier to the Bank. In this case there is only one treasurer for Allahabad and

Pratapgarh under whom there are five cashiers in the two places and he was the juniormost of those five. If the juniormost cashier in any branch outside the jurisdiction of this particular treasurer is dispensed with and this employee is posted there, he may not be acceptable to the treasurer there. In our opinion, in view of these considerations the view that the juniormost man in the whole service in the category of cashiers should be made to go cannot be accepted. This is not a case of victimisation and we, therefore, do not propose to make any order.

Baikunth Nath of the Gorakhpur Branch :

He was appointed head cashier in 1943. He had two cashiers under him. In May 1949 the Bank changed his designation to that of cashier. The Bank does not object to giving him the designation of head cashier and therefore, no further directions are necessary in this case.

Lachman Swarup of the Meerut City Branch :

The case is *sub judice* in a Magistrate's Court and we are unable to give any directions in this case at this stage.

Ramesh Chand Raizada of the Kanpur Branch :

Kailash Nath Bajpai of the Kalpi Road Branch :

J. N. Srivastava of the Hazratgunj Branch :

These cases are pending before the Conciliation Officer and therefore, no order is called for.

K. L. Bhandari of Mauranipur Branch :

Mr. Mehrotra states that this is a case of non-implementation of an Award. There is no need, therefore, for the Tribunal to give any directions in this case.

K. C. SEN,
Chairman.

J. N. MAJUMDAR,
Member.

BOMBAY,
25th January 1950.

N. C. KUPPUSWAMI, Under Secy.

(Vide *Gazette of India*, Part I, Section 1, dated February 18, 1950, pp. 238-242).

(6)

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 22nd February 1950

No. LR.2(270)-I.—In pursuance of section 17 of the Industrial Disputes Act 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes) in the matter of alleged victimisation, etc., in respect of Chartered Bank of India, Australia and China.

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BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Chartered Bank of India, Australia and China

AND

Fram Jamshedji Patel

In the matter of alleged victimisation

Appearances :

Counsel Mr. A. C. Beynon, for the Chartered Bank of India, Australia and China, Bombay.

Mr. S. S. Dighe, Advocate, for the Federation of Bank Employees, Bombay.

AWARD

The following case was heard at Bombay on the 4th February 1950. It was alleged by the Federation of Bank Employees, Bombay, that it was a case of victimisation.

From Jamshedji Patel of the Chartered Bank of India, Australia and China :

He was a clerk in the Chartered Bank of India, Australia and China. By an agreement dated 16th December 1938 the said Bank purchased the undertaking of the P. & O. Banking Corporation, Ltd. The said agreement *inter alia* provided that the said Bank would fulfil all the contracts and engagements of the P. & O. Bank current at the date (other than contracts of employment subsisting between it and its officers and employees and its engagements, if any, in connection with any pension, provident or other funds or schemes instituted for the benefit of any such officers or employees). Consequent upon the purchase by the said Bank the P. & O. Bank gave notice on 19th January 1939 to all the employees terminating their engagements with effect from the 28th February 1939. Thereafter the P. & O. Bank issued a circular which ran as follows " Whilst it is impossible for the Chartered Bank to absorb all the staff, it is hoped that at least a portion of the local staff will be taken over by them. If any member can obtain employment before 31st January 1939, your Manager has been advised to give every assistance * * * * * In cases where members of the P. & O. Bank are re-engaged by the Chartered Bank, it will only be possible at first to do so on a temporary basis, and full pay, on the terms agreed with the Chartered Bank, will be paid by the latter Institution for all work done on and after 1st February 1939. Should, however, any clerk be engaged permanently by the Chartered Bank after 1st February 1939, it will be a condition of his engagement, if 25 years of age or over, that all sums paid to the clerk by the P. & O. Bank :

(1) Salary for period of notice ;
(2) Balance of Provident Fund ;

shall be paid to the Chartered Bank, to be held in trust by that Institution for the benefit of the Clerk under a Scheme to be formulated later ". Several employees of the P. & O. Bank were employed by the Chartered Bank on those conditions. The Award of Divatia, J. which came into operation in April 1947

provided that the adjustment of the then existing salaries to the new scales to be paid under that award should be made in a manner which might give a fair rise to as many employees as possible, particularly old ones, consistent with their standing and their efficiency. He, therefore, directed that each big bank should make its own adjustment according to the observations made in his award and that if it was not generally acceptable to the employees the aggrieved parties might apply to the Court for its modification. Some employees of the P. & O. Bank in respect of whose salaries the adjustment was alleged to have not been made according to that direction applied before Divatia J., who made an order dated 19th December 1947 as follows: "As I find that some of the clerks have not received even a fair increment, I think that the adjustment granted for these clerks should be revised and that an increment of Rs. 30 should be given to clerks having 25 years' service and an increase of Rs. 25 to be given to clerks under 25 years' service. This order was published in the *Bombay Government Gazette*, Part I, dated January 8, 1948 at page 127. The Bank not having adjusted the salaries in accordance with that order, those employees made an application, being Application No. 37 of 1948, before the First Labour Court which held that there was an illegal change within the meaning of Section 46 of the Bombay Industrial Relations Act. The Bank preferred an appeal against this decision to the Industrial Court, which on 11th October 1948 set aside that order on the ground that the provisions of Section 74 (2) of the Bombay Industrial Relations Act had not been complied with and that the application was, therefore, incompetent. Consequently the said order was published by the Registrar as a supplementary award under provisions of the said Section 74 (2), whereupon the aforesaid employees again made an application, being Application No. 7 of 1949 to the Second Labour Court under Section 78 (1) A (c) read with Section 46 (5) of the Bombay Industrial Relations Act, 1946, for a declaration that the Bank had made an illegal change and for consequential relief. Patel who was in the service of the Chartered Bank gave evidence in favour of the applicants at the hearing of this application to prove that the service of these employees was a continuous one so that they would be entitled to the benefit of the said Award. He deposed that in a speech by Mr. Marrable, the Manager of the Chartered Bank, he had assured those employees of the continuity of their service. Another employee of the Chartered Bank, Ghadiali, also deposed to the same effect. In delivering judgment the learned judge of the Second Labour Court, remarked: "Both these witnesses seem to be so over-enthusiastic for proving the case that they make many statements which are quite false. Mr. Patel says that Exhibit No. 29 which is dated 2nd August 1946 was read in the meeting held on 17th July 1946. He persists in making this statement even after the improbability is pointed out to him. He denies some of his statements made in the previous proceedings by saying that the record may be incorrect"; and the Court dismissed the application. Thereupon the Bank held proceedings against Patel under Rule 21 of the Model Standing Orders for the Banking Industry and in accordance with Rule 22 thereof a charge sheet was given to Patel on 30th May 1949 when he was also suspended. He was given an opportunity to answer the charges and was permitted to be defended by his representative under Section 30 of the Bombay Industrial Relations Act. There were two charges against him; one was in respect of giving false evidence against the Bank, which according to the Bank, amounted to misconduct under sub-rules (iv) and (xiii) of Rule 21, and the other charge was that he had improperly obtained certain information about the names and adjustments of 19 persons from the Cash Department, knowing that the proper method would have been to approach the Court and ask that the Bank be directed to produce the information, and that he had unscrupulously persuaded another employee

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of the Bank to betray the confidence of the Bank and give him the said information. According to the Bank these acts amounted to misconduct under sub-rule (xvi) and sub-rule (xviii) of Rule 21. An enquiry was held into these charges and the Bank came to the conclusion that he was guilty of misconduct as contemplated by the said rule, and by an order dated 19th June 1949 he was dismissed without notice. This is the order that is challenged before us.

We must rule out the objection of the Bank that this Tribunal has no jurisdiction owing to the order of dismissal having been made on 16th June 1949, which was after the date of the Notification (the 13th June 1949) referring the dispute to this Tribunal. The order of suspension was made on 30th May 1949 and we must hold that the dispute between Patel and the Bank which ultimately resulted in the former's dismissal, arose or in any event was apprehended prior to the date of the Notification.

Mr. Dighe for Patel did not contest the finding of the judge of the Second Labour Court that the statements made by him were false. He did not deny that Patel had made the statement which was recorded by the Bank in course of the enquiry in connection with the information obtained by him as follows: "I know that the proper method would be for me to approach the Court and ask that the Bank be directed to produce the information. The witness volunteers. My waiting would have been too late. If I had gone to the Court it would have been too late because I would have gone to the Court without the information. Question: Surely you had time to approach the Officer of the Bank to get the information. Answer: I am positive that the Bank would not have given me the information on the contrary, they would have blamed me * * * * * I had to persuade Mr. Hathiram to betray the confidence of the Bank and give me the information * * * * For this matter I had acted unscrupulously". Mr. Dighe, however, contended that the giving of false evidence did not constitute misconduct within the meaning of Rule 21. Now Rule 21 *inter alia* provides that the following acts and omissions on the part of an employee shall amount to misconduct; sub-rule (iv): abetting, conniving at or attempting or committing of, theft, fraud or dishonesty in connection with the business, property, or affairs of the Bank or its customers: sub-rule (xiii); doing any act, or engaging in any business prejudicial to the interests of the Bank.

Mr. Beynon on behalf of the Bank, has contended that the giving of false evidence in the Court amounted to dishonesty in connection with the affairs of the Bank within the meaning of sub-rule (iv) and that in any event it amounted to an act prejudicial to the interest of the Bank within the meaning of sub-rule (xiii). As to dishonesty, Mr. Beynon has contended that even if the word be given the meaning given under the Indian Penal Code, that is, an act intended to cause wrongful loss or wrongful gain, the object of Patel in making the statement was to induce the Court to hold that the service of the ex-employees of the P. & O. Bank was continued in the Chartered Bank and that, therefore, they were entitled to higher salaries in accordance with the directions of Divatia J., so that it can be said that there was an attempt to cause wrongful loss to the Bank and, therefore, also an act prejudicial to the interests of the Bank. We are of opinion that there is considerable force in Mr. Beynon's arguments, but it seems likely that the word "misconduct" in the Rule has been used in its wider and more popular sense; and we feel we should be justified in holding that the giving of the false evidence amounted to misconduct within the scope of Rule 21. With regard to the second charge, it has been admitted by Patel that he persuaded the Assistant Cashier Mr. Hathiram to betray the Bank's

confidence and that he acted unscrupulously. This obviously comes within the provision of sub-rule (xvi) of Rule 21, being the commission of an act subversive of discipline or good behaviour on the premises of the Bank. The question that now arises is whether the order of dismissal was made by reason of this misconduct or whether the misconduct was utilised by the Bank for the purposes of getting rid of Patel, who was an active member and important office bearer of the Chartered Bank Employees' Union and the Federation of Bank Employees, Bombay and who took an active part in various proceedings, figuring either as an applicant or witness on behalf of the employees in Labour Court. It has been stated by Mr. Beynon that the other witness Ghadiali who also gave false evidence was not discharged because he offered an apology. Patel was also asked, but refused, to offer an apology. The fact that Patel was given an opportunity to offer an apology suggests that if he had availed himself of it he would not, in all probability, have been dismissed. This sufficiently proves, in our opinion, that he has not been punished or victimised owing to his trade union activities. Accordingly we do not think that the order of his dismissal calls for interference by us.

K. C. SEN,
Chairman.

J. N. MAJUMDAR,
Member.

BOMBAY:
11*th February* 1950.

N. C. KUPPUSWAMI, *Under Secy.*

(Vide *Gazette of India*, Part I, Section 1, dated March 4, pp. 1250, 296—277.)

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(7)

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 7th March 1950

No. LR. 2 (268) /I.—In pursuance of section 17 of the Industrial Disputes Act, (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation, wrongful dismissal, etc., in respect of the Imperial Bank of India (Bengal Circle).

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BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Imperial Bank of India (Bengal Circle)

AND

Its Workmen

In the matter of alleged victimisation, wrongful dismissal, etc.

Appearances :

Mr. Niren De with Mr. Jyoty Ghose for the Imperial Bank of India Indian Staff Association (Bengal Circle).

Dr. S. K. Gupta instructed by Messrs. Sandersons and Morgans, Solicitors for the Imperial Bank of India.

AWARD

The cases dealt with in this Award were heard at Calcutta between the 6th December 1949 and the 9th January 1950.

The Imperial Bank of India Indian Staff Association (Bengal Circle) sent a list of alleged cases of victimisation along with a letter which they addressed to the Managing Director of the Imperial Bank of India on the 24th September 1949, and these cases (along with the number assigned to each case) are taken from that list.

Nandkishore Mishra (No. 20).—The alleged victimisation in this case is stated to have consisted in his demotion. His case is that he was appointed a clerk on 20-10-1924 at the Chandausi Pay Office, that later on he became the clerk-in-charge of the said Pay Office and continued in that position for 11 years, and that on 1-8-1948 he was informed by the Agent of the Bank that he had to revert as an ordinary clerk in view of the past unsatisfactory inspection reports regarding him. He wanted a copy of the said reports by his letter of the 14th September 1948 but they were not supplied to him. With reference to that letter it was stated by the District Manager, Kanpur, to the Agent, Imperial Bank of India, Bareilly, that he had been advised by the Allahabad Agent that Mishra's shortcomings had been duly pointed out to him from time to time and that he had nothing to add to what had been communicated to him by the Allahabad Agent. On behalf of the Bank it has been stated that this is not a case of demotion, that Mishra's substantive appointment was that of a clerk and that when he was acting as clerk-in-charge he was drawing only an acting allowance for the period for which he so acted. It appears, however, from a copy of the letter of the District Manager, Kanpur, dated the 29th June 1945 addressed to the Agent, Allahabad Branch, that the latter was accorded sanction to confirm him in his appointment as Clerk-in-charge of Pratabgarh Treasury Pay Office with effect from 17-6-45. Therefore the Bank's contention that his substantive post was that of a mere clerk cannot be accepted. Dr. Gupta appearing on behalf of the Bank admitted that when he was allowed to continue in that office it amounted to confirmation. We hold, accordingly, that he was confirmed as clerk-in-charge with effect from the 17th June 1945, and that, therefore, his reversion to the post of an ordinary clerk has caused to him a loss

of Rs. 90—13—0 per month consisting of the Treasury Pay Office allowance, dearness allowance, house allowance, etc. In a letter dated the 10th September 1949 the Deputy Secretary and Treasurer stated that his shortcomings in regard to his lack of business ability were pointed out to him in writing on three occasions during 1947 and 1949, and we have been furnished with some extracts containing remarks about him; but unfortunately when he wanted copies of the inspection reports none was furnished to him. In the dispute between the Bank and the employees Mr. R. Gupta in his award (made in 1947) said that any adverse remarks against an employee should be mentioned in his service book after giving an opportunity to the employee to explain the charges. We understand that in pursuance of this direction the Bank issued circulars to all officers to act in accordance with the said direction; but in this case we find that it was not followed. We now proceed to consider the extracts filed, no service book having been produced before us. On 28th September 1947 it was remarked that as Clerk-in-charge of the Treasury Pay Office it ought to be Mishra's constant endeavour to secure to the Bank all acceptable cash credit advance business at his station. On 26th May 1948 it was stated that he had not made any progress towards the resumption and augmentation of acceptable business in respect of foodgrains and other grains in spite of the decontrol and withdrawal of restrictions on grains and seeds, and he was asked to exert himself in that direction and put up proposals for the revival of old business relations and the establishment of new ones. On 1st June 1948 it was stated it was incredible that no foodgrains were imported to Pratabgarh and that, therefore, it appeared that he was not sufficiently intimate with the local bazaar or the neighbouring *mandi* and did not carry the requisite influence to attract business to the Bank; and he was asked to give serious consideration to the matter. He must obviously have been informed of these matters; but the question that arises is, whether he was asked to explain why the Bank should not regard its inability to revive or attract business as directly attributable to his inefficiency and deal with him on that basis, *e.g.*, by demoting him. It does not appear improbable that he would have given a reasonable answer based on circumstances other than his inefficiency. From the extract of the inspection and audit report of the 6th April 1946 filed before us we find the following opinion of the Inspector as to his ability: "Average. Careful and hard-working but must concentrate more on bazaar contracts". The Agent was required to point out to him that he ought to maintain a close contact with the bazaar with a view to securing as much acceptable business as possible, and the Local Head Office wanted the Agent to submit to him in six months' time a special report on his work with particular reference to his relations with the local business community in order to be able to consider the desirability of his retention at the Treasury Pay Office. The Agent remarked that his shortcomings had been pointed out to him. There was a further report on the 24th May 1948 when the Inspector remarked that his work was just satisfactory but did not impress him as possessing either initiative or business ability, whereupon the District Manager remarked that he did not consider that Mishra was fit to be retained in his post and that his recommendations in that regard would be submitted to the Head Office shortly. The Head Office approved of his recommendations that he be removed from the charge of the Treasury Pay Office and reverted as an ordinary clerk; he was accordingly so reverted. From all these materials it appears to us that no explanation was called for from him as to why he should not be demoted from his post, in which he had been confirmed, by reason of his shortcomings and want of business ability. The principles of natural justice required that before he could be so punished he should have been given an opportunity to defend himself. Those

principles, have been embodied in Rule 48 of the Book of Instructions of the Bank under which a full report must be sent to the Local Head Office accompanied, if possible, by the employee's explanations of the offence with which he is charged. In these circumstances we direct that this employee shall be reinstated in his substantive post as a clerk-in-charge and be paid the amount which he lost by reason of his demotion and that this direction shall be complied with within a month from the date of this Award becoming operative.

Sawal Das Agrawal (*No. 26*):

It is alleged that this is a case of victimisation by transfer from Azamgarh to Banaras because he was a founder and active worker of the local Staff Association. The Bank in reply has stated that it has the undisputed right to transfer any employee whenever or wherever it thinks fit and that this, therefore, is not a case of victimisation. In our opinion this is not a sufficient answer to his case. No reason had been given why his transfer was made. It appears from the documents disclosed at the hearing that he belongs to Azamgarh where he has his house and lives with his family, that on the 23rd March 1949 he was suddenly served with an order asking him to report for duty at Banaras, that certain complaints had been received against him purporting to have been made by the General Merchants' Association, Azamgarh, and that later the Secretary of the General Merchants' Association denied that any such complaint had been made by them, when it was discovered that the complaint was unsigned, and that the Bank nevertheless believed that one of the matters complained of, namely, that this employee's relatives had shops in Azamgarh, was true. Even if that was true, the fact remains that he was never asked to show cause why he should not be transferred on this ground; and it is by no means clear to us that the fact of his relatives having shops there was an adequate reason for the transfer. It appears to us more probable that he was transferred for his Trade Union activities. We therefore, direct that he shall be transferred back to Azamgarh within a week of this Award becoming operative.

Daya Ram Mishra (*No. 27*):

This is a case of alleged stoppage of an increment and demotion. He was working in the cash department at Banaras from 1923 or 1924. He was 45 years of age and the Bank wanted him to retire. On 26th April 1949 he submitted a representation stating that he was very fit and that he had a large number of dependants to maintain. On 10th June 1949 he was reverted with effect from 1st June 1949 as a Poddar on his then salary of Rs. 82 per mensem on the ground that he did not know English and that further increments should be given to him subject to approved service on the scale laid down for a Poddar. He contends that this amounted to demotion which deprived him of his graded salary for no reason except that he was not willing to retire as asked by the Bank. It appears from a letter dated 25th May 1949 by the Officiating Manager at Kanpur to the Secretary and Treasurer, Imperial Bank, as also from a letter of the Deputy Secretary and Treasurer to the Manager at Kanpur dated 2nd June 1949 that he was a Teller and was in that grade of a Teller in 1947 when Mr. Gupta made his Award. In that Award the Receiving and Paying Tellers were placed in Grade II Clerical, and, therefore, his reversion to the post of a Poddar (whose increments and maximum pay are lower than those of Grade II Clerical) was undoubtedly a case of demotion. The ground of his ignorance of English which seems to have been first discovered on 25th May 1949, as a disability in respect of the work which he had been doing for some years, does not seem to be a sufficient justification for the demotion, particularly as he was given no opportunity for explanation. We, therefore, direct that he shall be reinstated in his

former position as a Teller and shall get the pay and allowances due to him as such, besides the amount which he has lost by the demotion, within one month from the date with effect from which this Award becomes operative.

Mahendra Jha (No. 32):

On Dr. Gupta's stating that this employee is now a clerk on the same terms as before, the case is not pressed by Mr. De on behalf of the Association. No direction, therefore, is called for.

Sheo Prasad Gupta (No. 3):

He was a clerk in the Azamgarh Treasury Pay Office, having been appointed in May 1932. On 11th December 1948 he was arrested by the police under Section 3 (1) (*a*) of the Maintenance of Public Order Act, 1947, on the ground of his being an active member of the Rashtriya Swayamsewak Sangh (to be referred to hereafter as R.S.S.). By a letter dated 19th February 1949 the Bank suspended him with immediate effect. On 14th April 1949 he was informed by the clerk-in-charge, Azamagarh Treasury Pay Office that on the recommendation of the Secretary and Treasurer the Local Board had dismissed him with effect from 11th December 1948 in view of the fact that he had been found guilty of taking part in illegal political activities, and he was asked to refund the salary that had been paid to him from 11th December 1948 to 12th January 1949 amounting to Rs. 127-15-3. He was kept in custody up to 27th April 1949 when he was released unconditionally. He was never put up for trial. After his release he made representations to the Bank for a review of the order made against him and for reinstatement and the Staff Association also made similar representations on his behalf on 17-6-1949 the Deputy Secretary and Treasurer of the Imperial Bank in his letter to the General Secretary of the Association reiterated that he had been dismissed from the Bank's service owing to his having taken part in illegal political activities in connection with the R.S.S. movement, that his arrest, detention and inability to attend to his normal duties and his failure to make any representation to the authorities against the detention also justified his dismissal, and that there was no question of the payment of his salary after the date of his arrest or of the bonus for the half-year ending on the 31st December 1948. The Association has referred to another clerk named Koley who was arrested in February 1948 on account of his connection with the R.S.S. movement and released in July 1948 but who thereafter was reinstated. Dr. Gupta on behalf of the Bank referred to Article 50 of Diamond's "Master and Servant", where it is laid down that "it is the duty of the servant not to incapacitate himself from due and faithful service of the master," and contended that this employee must have known that the consequence of his association with the R.S.S. movement would be his detention and that he would thereby incapacitate himself from performing his duties, particularly as Government circulars had been sent to the Bank through the Reserve Bank in respect of employees concerned in political activities. The circulars have not been produced before us and we do not know what matters in particular they related to. With reference to the case of Koley Dr. Gupta stated that he had been reinstated at a time when the Bank had not formulated its policy regarding such of its employees as were concerned in political activities. As to the legal principle relied on by Dr. Gupta, it has to be borne in mind that the employee in question was not put upon his trial nor found guilty by any Court, nor was he called upon to give any explanation and that the ban on the R.S.S. movement has now been removed. It has not been established that Sheo Prasad was actually concerned with any such activities in connection with the R.S.S. as brought him under the ban or even that he was a member of the said organization.

If his explanation had been taken he might have been able to elucidate those questions. He has stated, and it has not been denied, that he has served the Bank with loyalty and integrity. We are of opinion, that after the removal of the ban the Bank ought to have considered his representation afresh and that the ends of justice would be sufficiently met if he be reinstated with effect from the 1st October 1949 and be allowed to retain the sum of Rs. 127-15-3 paid to him and if he be also paid the half-yearly bonus for the second half of 1948. We direct accordingly, and further direct that the reinstatement and the payment to him of the amount due up to the date of this Award becoming operative shall be made within one month from the said date. We also direct that the period of his absence from office shall not be regarded as a break in his service.

Behari Lal Sah (No. 4):

Hayat Singh (No. 5):

Har Dutt (No. 6):

Behari Lal Sah (No. 4) is a clerk and joined the service of the Bank on 10th May 1923; he is now 48 years old and has completed 26 years' service. Hayat Singh (No. 5) is a head messenger. He joined the Bank's service on 10th May 1923 and he is 48½ years old. Har Dutt (No. 6) is also a massenger; he joined the Bank's service on 10th May 1923 and is 53 years old. All these persons were attached to the Nainital branch, J. P. Mehta, the branch Agent, by his letter of the 8th April 1949 asked these three persons to submit their applications for retirement as required by the District Manager, Kanpur. Dr. Gupta states that on the 12th August 1949 the Secretary and Treasurer of the Bank informed the General Secretary of the Imperial Bank of India Indian Staff Association that these three employees had been permitted to continue in the Bank's service unless they themselves wished to retire. In the circumstances no directions from us in these cases are called for.

Chhagan Lal Mundra (No. 14):

This is a case of alleged wrongful dismissal. He was a poddar attached to the Jamshedpur branch of the Bank. On 23rd July 1946 he was one of the two poddars who were in the shroffing room and was given three bundles each of 10 rupee notes of the value of Rs. 10,000 for testing. The other poddar Chandrika Prasad Singh was similarly given three other bundles each of 10 rupee notes of the value of Rs. 10,000. His case is that having been asked by the Head Cashier to collect the dues of the Bank against the Bogra City Bank he left the room when the other poddar Chandrika Prasad Singh was sitting there and that on his return there after 20 minutes the shortage of one bundle of notes of the value of Rs. 10,000 was discovered. His services were terminated by giving him a month's salary in lieu of notice on 1st August, 1947, more than a year after the date of the occurrence. The Bank's case is that he was dismissed on account of his gross negligence in leaving the money unattended to while going on an errand outside the Bank. The matter was immediately reported to the police who examined several persons and submitted their report on 7th August 1946, suspecting him and the other poddars and some others. The shroffing room is an enclosure where the money testers sit and count the money and the door leading to which is just in front of the Head Cashier's seat. The Agent reports that it is not possible for any outsider to enter the room without attracting the Head Cashier's notice. He submitted his explanation and after the termination of his service he made representations to the Bank in all of which he mentioned the names of the persons that were present inside

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and outside the enclosure and the statements made by the other poddar and others that the notes were there in the shroffing room after he had left. The Head Cashier did not suspect him and the Agent reported that the Head Cashier was inclined to believe that the theft was the organised work of some of their own men in the cash department who, taking advantage of Chhagan Lal's carelessness, had removed the bundle of notes. It is also stated in the report that he does not pull on very well with others in the department. The Head Cashier who executed a deed in favour of the Bank holding himself responsible for the loss to the Bank as also for the conduct of the poddars has paid in the sum of Rs. 10,000 to the Bank and in his turn taken promissory notes from his poddars each bearing a proportionate burden of the loss (*viz.*, Rs. 2,000). The Head Cashier has stated that it has not been possible satisfactorily to fix the guilt on any person. He has not withdrawn the guarantee for Chhagan Lal nor made any recommendation for the termination of his services. Dr. Gupta on behalf of the Bank admits that as regards the poddars the opinion of the Head Cashier is the determining factor in allowing them to continue in service. As the facts of the case do not point to Chhagan Lal's guilt, in his memorandum addressed to the Local Board the Secretary and Treasurer stated on 23rd July 1947, "Babu Chhagan Lal Mundra, whether guilty or not, was grossly negligent and was primarily responsible for the loss" and that accordingly his recommendation for the termination of this employee's service was accepted by the said Board. It must be remembered that when Chhagan Lal left the notes in the shroffing room Chandrika Prasad was admittedly there; and it has been brought to our notice that the practice prevailing in the office is that if any one of the poddars remain in the shroffing room or enclosure when another poddar has to go out, the notes left there are taken care of by the poddar who remains inside. It appears from the letters of the Deputy Secretary and Treasurer (dated 16th October 1946 and 8th November 1946) to the Agent as also from the officiating Secretary's memorandum (dated 25th September 1946) to the Local Board that the procedure followed at this branch in regard to the examination of remittances was considered as far from satisfactory and that the Head Cashier and the other departmental staff were regarded as not fully alive to their responsibilities; for these reasons directions were given as to how the examination of remittances should be conducted. In the Deputy Secretary's letter to the Agent dated 16th October 1946 the view was taken that the loss was mainly caused by the Head Cashier's lack of appreciation of his responsibility and the defective procedure adopted by him for the examination of the remittance. It appears to us clear that the Bank would not have taken serious view of the matter if Chhagan Lal had drawn the attention of the Head Cashier or the other money-tester Chandrika Prasad when he had left the room. Having regard to the prevailing practice it seems that when he left the room he felt that the presence of Chandrika Prasad was a sufficient safeguard against possible theft. In our opinion the order made by the management in this case was an unjust order particularly in view of the fact that it was made a year after the incident and after the Head Cashier had taken from him a promissory note for Rs. 2,000. We, therefore, direct his reinstatement within one month of this Award becoming operative and the payment to him, within the same period, of the pay and allowances he would have been entitled to, if his services had not been terminated, during the six months next preceding his reinstatement.

Nabin Chandra Tewary (*No.* 12):

He was a Record Keeper of the Gaya branch, having been appointed in 1940. He was confirmed in 1942, suspended on 29th October 1948 and discharged from

service on 1st January 1949 after payment of one month's salary in lieu of notice. The Bank's case is that he was involved in the removal from the ledgers of 1942-43 and 1943-44 of the folios relating to one constituent Rohtas Industries, Ltd., No. 2 copies of which the Bank had been called upon to furnish by the Income-tax Investigation Commission. On receipt of the notice the Agent called upon Tewary to put up the necessary ledgers, when he reported that the said folios were missing. The matter was reported to the police and the latter made a report to the effect that there was no direct evidence to put Tewary on trial for the removal of the records, but they suggested departmental action against him. This report was made at the close of August 1949 and reached the hands of the Bank at a later date, but before that he had already been discharged. Prior to the discharge the Gaya Agent of the Bank held an enquiry and questioned Brij Behari Singh, cashier of the Gaya branch, Ramchand, cashier-in-charge at Dalmianagar and Tewary. From their statements it appeared that they were approached by one person on behalf of this constituent and requested to supply him with certain statements of his account, for which service he offered some money. None of these employees admitted having removed the folios. Tewary submitted an explanation on 25th October 1948 as follows: "A man of.....concern came to me last Saturday or Sunday and requested me to give a statement of Accounts, the head of which was not properly known to him. I told him unless you can give me the folio or give the Head of the Account it is not possible for me to supply the statement. He promised that he will be coming again on the coming Sunday. The said man came yesterday in the office who inquired of B. Brij Behari Singh from Bihari Ram. Bihari told me to identify him. After identifying the man, I informed the Agent that he has come. The Agent told me to detain the man for some time, which was done. But after a long time, say an hour, at about 4.30 as the Agent told me to let him go and he went away. The Agent made a report to the Local Head Office on the 16th November 1948 giving the particulars of his enquiry, and he also forwarded the service records of all the three employees. On 21st December 1948 the Secretary and Treasurer submitted a memorandum to the local head office recommending the dismissal of all the three, including Tewary. It has been contended on his behalf that no reasons were assigned for his discharge and no opportunities were given to him for being heard and that whatever evidence is available would not be sufficient to get him convicted in a court of law. There is no doubt in our mind that he knew what the charges were against him; when questioned he submitted an explanation and the Bank followed Rule 48 contained in its Book of Instructions, which requires a full report to the local head office accompanied by the employee's explanation. We are satisfied that the Bank has duly considered all the material facts in this case and found that it would not be in its interests that he should continue in its service. We are, therefore, unable to hold that the termination of his services amounts to victimisation and accordingly, we do not give any directions.

Gopinath Roy (No. 17):

This is a case of alleged wrongful suspension. Dr. Gupta on behalf of the Bank stated that the employee was no longer under suspension and counsel for both parties agreed that no order was necessary. Accordingly we give no directions.

Panchkauri (*No.* 24):

The complaint is that he was forced to work overtime. This was denied by Dr Gupta on behalf of the Bank, and Mr. De did not press the complaint. We do not interfere, therefore, in this case.

Biren Banerjee (*No.* 28):

This is a case of alleged demotion. As the Bank agreed to consider his case for promotion Mr. De did not press this case. We, therefore, give no direction.

Indra Prakash Sangal (*No.* 29):

The Association by a letter dated 8th September 1947 wanted this case for promotion to be considered. The Bank agreeing to consider the case, Mr. De did not press for an order.

The following cases were similarly not pressed :

H. L. Tandon (*No.* 3):

A case of alleged delay in making promotion.

Kalyan Singh and Ramji Singh (*No.* 31):

Which are cases of alleged victimization.

Krishna Bahadur (*No.* 38):

A case of alleged non-payment of bonus.

D. S. Bhatt (*No.* 41):

A case of alleged wrongful suspension.

Sardar Kartar Singh Bindhu (*No.* 9):

This is a case of alleged wrongful dismissal on 3rd January 1949. He joined the Bank on 1st November 1931 and he became the Head Cashier of the Abbotabad branch in 1946, in which capacity he continued till 3rd November 1947 when communal riots broke out. On that date he and Mr. Bahl, Agent of the Bank, were escorted by a military lorry after both of them had handed over their respective charges to a European officer Mr. Abel. The said branch was closed in November 1947 by Mr. Abel after a portion of the currency chest had been handed over to the Treasury Officer and the remaining portion locked in the strong room. In June 1948 Mr. Abel came to the branch accompanied by two poddars from the Lahore branch and despatched the currency chest balanced including Rs. 58,90,000 in whole rupees (including Rs. 45,000 in quaternary rupees) and currency notes. The quaternary rupees and the small coin balance of Rs. 52,875 were handed over to the Lahore Mint and the remaining notes and coins to the Lahore branch of the Reserve Bank of India. The Bank's case against Bindra is as follows: On examination of the remittances in respect of the quaternary rupees and small coins a total net deficiency of Rs. 5,860-0-9 was found, including Rs. 5,692 in counterfiet quaternary rupees, out of which Rs. 3,800 were in two bags containing Rs. 4,000. There was also a deficiency of Rs. 1,033 in the remittance of currency notes. The boxes containing the remittances were received in good condition with seals intact. All this showed that there could not be any tampering with the remittance in transit, and therefore, the coins, and notes must have been in the currency chest before the Branch was closed and as such the responsibility for them lay on Bindra as Head Cashier. He was asked to reimburse the Bank under the terms of

his agreement as Head Cashier but he refused to do so. His services were accordingly terminated after giving him one month's salary in lieu of notice.

Bindra's case is as follows : Till the time he made over charge to Mr. Abel, all the bags in question were weighed and checked by him as well as Mr. Bahl., the Agent, twice a year ; all transactions were carried on strictly in accordance with the instructions contained in the Bank's Book of Instructions and Resource Manual and in such operations no deficiency was discovered. All denominations of notes used to be counted by the cashiers, himself and the Agent before placing them in the currency chest, and, therefore, when he was informed that there were many mutilated notes and that the shortage included a hundred-rupee note he suspected that the new inexperienced staff that had been recruited by the Reserve Bank were responsible for the state of things complained of. When he had taken over charge of the currency chest in October 1946 he had weighed all the bags and made the cashiers put fresh poddar slips on the bags with their full signature ; but out of the 27 slips which were sent to him for inspection and comment with the Bank's letter of 13th October 1948, he could identify only six slips and that the initials on the rest did not appear to be familiar to him, those slips mostly bore only one date, *viz.*, 22nd February 1945, which shows that such remittance must have been from the Reserve Bank of India at Lahore, such a large amount could not be received by the small branch at Abbotabad on one particular day. One of the slips showed Rs. 1,826 as counterfeit out of Rs. 2,000, which was impossible. The grand total of the 27 slips comes to Rs. 2,953 whereas the memorandum dated the 17th September 1948 by which an explanation was asked for from him showed Rs. 5,859-14-6. Since he left Abbotabad, the work of handing over a part of the currency chest to Treasury Officer, packing off the remainder, sending it to Lahore, and examination there was all done without his knowledge and in his absence, he could not, therefore, be held liable on any account.

In the correspondence disclosed we find a letter dated 21st September 1948 from Mr. Bahr, then Agent of Simla branch, addressed to the Manager, Lahore district. It states : " With reference to the endorsement on copy of your D.M. Special letter No. 16-609 dated 17th September 1948, with enclosures, addressed to Mr. M. L. Puri, I beg to advise that my verification of the above currency chest at the time of my taking over Abbotabad branch on 17th August 1947 was carried out strictly in accordance with the instructions contained in para 8, Chapter VIII of the Bank's Book of Instructions and Article 20 of the Resource Manual and no deficiencies came to light. All subsequent transactions in the above chest during my taking of office were similarly confined to the above instructions. All one hundred rupee notes were at the time of taking over and on subsequent occasions were personally counted by me, and the shortage of one hundred rupee note as revealed by the recent examination of the remittance is most intriguing. Under the above circumstances, I regret I am at a loss to explain the deficiencies which have come to light."

Paragraph 8 of Chapter VIII Cash Department Booklet No. 1, provides as follows :

> " Before taking notes and coin into ' joint custody ' balance the supervising official will check their correctness in the following manner :—
>
> (*i*) He will personally count all notes of denominations above Rs. 10 and will verify on the ' clip system ' as large a proportion as practicable of all other notes.....

(*ii*) He will have all bags of rupees and half-rupees weighed in his presence and a number of bags emptied to show that the contents are genuine coin. Out of one or two bags he will take and count a few rupees and have the remainder counted in front of him as a similar check to 'clip system' for notes; this he will also occasionally have done in the case of small and uncurrent coin."

The statement of Mr. Bahl substantially corroborates what has been stated by Bindra in his explanation and his representations to the Bank. It appears from the letter of the 17th September 1948 addressed by the Manager to Bindra that the bags containing the coin remittance having been individually weighed it was discovered that some of them were below the normal weight of Rs. 2,000 tolas Mr. Bahl has said that during his time, *i.e.*, from 17th August 1947 till 3rd November 1947, he used to follow the instructions contained in the booklet referred to above and that he verified the currency chest (by weighment of the bags containing coins) at the time of taking over charge on 17th August 1947. If his statement is correct, and we have no reason to think otherwise, particularly as no comment has been made by the Bank on this statement nor any explanation was directly called for from him nor any step taken against him, no shortage in weight in all probability, could have existed so long as Mr. Bahl and Bindra were at Abbotabad. In his memorandum to the Local Board the Secretary and Treasurer, after stating facts relating to the deficiency, concluded as follows: "As, in addition to the above irregularities, high denomination notes of Rs. 1,000 each, which should, under no circumstances have been accepted, were found in the Branch currency chest remittance, as already reported to you (*vide* our Memorandum dated the 5th November 1948, re-submitted herewith), it is obvious that there has been gross lack of supervision, if not actual dishonesty, in the Branch Cash Department, for which we must hold the Branch Head Cashier, Mr. Kartar Singh Bindra, responsible in terms of his Agreement with the Bank. We accordingly recommend that Mr. Bindra should be called upon to make good to the Bank the deficiencies in question and that, if he fails to do so, we should terminate his services by paying him one month's salary in lieu of notice, no reasons being assigned." Accordingly Bindra's services were terminated after giving him one month's salary in lieu of notice but without assigning any reasons. Bindra next appealed to the Bank for re-consideration of his case protesting his innocence and mentioning his loyal-services for 17 years and his plight as an evacuee, and he offered to pay a fine in order "to retain his job, his only support" and said that he would try his best to recover the amount from the cashiers as well as from their security deposits with the Bank, but the Bank refused to reconsider his case. In the papers disclosed by the Bank before us we do not find that he was asked to give any explanation regarding the high denomination notes of Rs. 1,000 nor does any complaint based on this fact find any place in the statement filed by the Bank before us. We do not know to what extent the statement by the Secretary and Treasurer regarding the high denomination notes influenced the decision of the Local Board in terminating this employee's services. There is, besides, no indication that the explanation offered by Bindra or the letter of Mr. Bahl referred to above, which undoubtedly merited careful consideration, was placed before the Local Board. Lastly, we are unable to understand why the Secretary and Treasurer should have recommended to the Local Board that no reason should be assigned for the termination of Bindra's services. Bindra has complained that the cashiers who worked under him, and who would also be responsible under the terms of their respective agreements, were all allowed to resign by the

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Bank without any reference to him, so that it became impossible for him to recover from them their respective contributions in respect of losses or deficiencies. Taking into consideration all the circumstances of this case we are of opinion that the order terminating the services of Bindra cannot be allowed to stand. We, accordingly, direct his reinstatement and pay to him of his pay and allowances with effect from the 3rd January 1949 within a month of the publication of this Award.

Ramji Das Gupta (No. 13):

He was a despatch clerk at Alwar and his services were terminated on the 4th of January 1949. The complaint in this case is that he was not furnished with any charge or any complaint such as was to have been taken into consideration by the Bank, that, therefore, termination of his services is wrongful. The Bank's case is that he used to misappropriate small sums of money out of the money advanced to him as despatch clerk by making fictitious entries in the Postage Register, that the matter was detected by the Agent and that the explanation offered being very unsatisfactory his services were terminated after payment of one month's salary in lieu of notice. The Bank addressed a memorandum dated the 11th August 1948 to him asking for an explanation, and there it was stated that certain covers were to be posted on the 10th August and entered in the Ordinary Postage Book on that date, but that on the matter being investigated the following discrepancies as noted against the entries noted below were found :

Letter No.	Addressee	Place	Postage	Agent's Remarks
D-1249/50	I.B.I.	Ahmedabad	0-1-6	No such cover.
S.C.P.A.	„	Indor ..	0-1-6	Do
D.D.P.A.	„	Mawana ..	0-1-6	Do
D.P.	D.M.	Kanpur ..	0-2-6	Entered twice. Had these Letters been posted separately stamps of As. 0-1-6 on each would have been sufficient.
S.L. 29/90	„	Kanpur ..	0-2-6	

He submitted an explanation with regard to the instance mentioned above. His explanation was that he had prepared the covers of ordinary *dak* and entered them in the Register with the envelopes as usual, that out of many other articles for despatch under registered covers he had found three of them to be sent to Ahmedabad, Indore and Mawana whose covers had already been prepared as for the ordinary *dak* and that "taking into consideration the economy he put the registered *dak* contents into them and despatched (them) but forgot to delete them from the Postage Book". With regard to the envelopes addressed to the D.M., Kanpur, his explanation was that he intended to sent them separately and entered the postages, *viz.*, 0-2-6, accordingly and that he took out the requisite stamps for affixation, that in the meantime he discovered that there was already one cover for the D.M. and finding that both of them could go together he put the letter No. S.L. 29/90 in that cover and that he went home leaving the other entry to be deleted next morning. If these instances stood by themselves the Bank might have taken a lenient view of the situation, the deficiency being only Re. 0-4-6. But it appears from the letter of the officiating Manager to the Secretary and Treasurer dated 10th November 1948 that pursuant to the Head Office's letter dated 8th October 1948 he scrutinised the entries of the Postage Book for 6 months ending 9th August 1948 and discovered certain other instances of more than one cover having been sent to the same branch on the same day bearing the same number twice in the Postage Book. Nothing has been produced before us to show that any explanation with regard

to those instances was at all called for from Gupta. Those instances were obviously taken into consideration by the Bank in terminating his service, as is clear from its statement before us that "he used to misappropriate small sums of money out of the money advanced to him as despatch clerk by making fictitious entries in the Postage Register". This does not seem to us to be the correct method under Rule 48 of the Book of Instructions. In these circumstances we would have directed Gupta's reinstatement, without imposing any conditions, but we are unable to do so as his explanation in respect of the instances mentioned in the letter of the 11th August above mentioned, was in our opinion, rightly considered by the Bank as unsatisfactory. He has asked for clemency and the Association has given an undertaking that if he is again guilty of any misconduct in future the Association will not take up his case. That being the position we think that the ends of justice will be met if he is reinstated with payment of salary and allowances for only two months next preceding his reinstatement within a month of the publication of this Award; and we direct accordingly. In our opinion the loss of pay and allowances for the intervening period can be considered as sufficient punishment for his past misconduct.

Thakur Ganga Prasad (*No.* 10):

He was a godown keeper at Gorakhpur and was dismissed on 14th January 1949. The complaint is that the order for dismissal was in contravention of Rule 48 as contained in the Bank's Book of Instructions. The Bank's case is that his services were terminated because his work was found unsatisfactory in that he used to borrow money from the Bank's constituents, and that he stole a signed blank cheque belonging to a constituent firm and got it cashed for Rs. 3,500. In February 1948 Mr. J. C. De was the Agent to the Gorakhpur branch. He left that branch in March 1948 and was succeeded by Mr. Mookerjee. While Mr. J. C. De was the Agent there was a complaint by one Cholairam of the firm of Messrs. Bindaram Cholairam that Thakur Ganga Prasad had misappropriated Rs. 3,500 from his firm's account with the Anandnagar Pay Office by taking away a signed blank cheque and getting the same cashed through a local man of Anandnagar on 14th February 1948. Mr. De thereupon investigated the matter and on his suspicions being aroused he warned him of the serious consequences that were likely to follow in the event of his guilt being proved. Ganga Prasad thereupon deposited a sum of Rs. 3,500 with Mr. Tripathi, Clerk-in-charge at the Basti Pay Office so that if on enquiry Mr. De was satisfied that he was guilty the money would be paid to Messrs. Bindaram Cholairam. As Mr. De was under orders of transfer he was anxious to complete the investigation and settle the matter and accordingly sent telegrams and wrote letters to Ganga Prasad at Patna. About the middle of March Ganga Prasad arrived and wanted to settle the matter with Cholairam; later he told Mr. De that the matter had been amicably settled. Accordingly the money was sent by Tripathi to Ganga Prasad who in his turn paid it to Cholairam on the 22nd in the presence of Mr. Mookerjee, the incoming Agent and two others. Cholairam thereupon requested Mr. De to treat the matter as closed. Mr. De could not agree to that and wanted to report the matter to the authorities unless Ganga Prasad resigned, which he promised to do on the expiration of his leave. As Mr. De was under orders of transfer and went to Delhi he left instructions with Mr. Mookerjee to inform him if he tendered his resignation.

All these matters are contained in a report dated the 27th November 1948 submitted by Mr. De to the Manager, Kanpur District. The officiating manager in his turn sent a full report to the local head office along with the report of Mr. De. Before that an explanation was called from Ganga Prasad by a letter dated the 29th July 1948. In his reply Ganga Prasad said, "I shall indeed be glad if you kindly take up the question of Rs. 3,500, as I have to get back the amount, as soon as the matters are completely investigated by you. I undertake to satisfy you or any other independent tribunal that Messrs. Bindaram Cholairam had no claim either against the Bank or against me, if at all he was defrauded by third parties, with whom we have no concern. I would request you to kindly let me know who is holding the sum of Rs. 3,500 in deposit". On the 14th August 1948 Mr. S. N. Mookerjee addressed another letter to him asking for a comprehensive report in regard to the sum of Rs. 3,500; and in reply he stated that on account of his mother's illness he had taken 20 days' leave and that during this period the question of this cheque for Rs. 3,500 had cropped up. "My mother happended to be seriously ill and she was in urgent need of being taken to Patna for medical treatment; I therefore, took 20 days' leave from 20th February 1948 and proceeded to Basti where my parents and relations were staying, to take my mother to Patna, but at Basti it was decided that I should proceed to Patna and fix up a place for lodging. Accordingly I left Basti for Patna. Mr. J. C. De the then Agent went to Basti and hearing that my parents were there, he sent for my uncle and he asked him to call me from Patna but I happened to reach Basti the same day, instead of being allowed to proceed to Patna with my mother, Mr. J. C. De sent me to Anandnagar and then to Natanwa to find out what the position was and to inform him immediately to inspect the stock at Natanwa. Mr. J. C. De then went to Natanwa and wanted me to stay on or to deposit a sum of Rs. 3,500 provisionally. I and members of my family were greatly apprehensive about the illness of my mother because my father was also seriously ill. In that state of emergency we naturally chose to deposit a sum of Rs. 3,500 with Mr. D. M. Tripathi under the instructions of Mr. J. C. De relying on the fact that money in no case would be lost to me. I thus got free and took my mother to Patna where she was treated in the Medical College. I was again called back for the purpose of enquiry but I was not in a position to stay at Gorakhpur". There cannot be any question that in this case Rule 48 was followed. Before us Ganga Prasad gave evidence, and the Bank also examined Mr. De. It was, however, agreed by learned counsel, on both sides that they would proceed for the purposes of this enquiry alone upon the documentary evidence only and would not call further witnesses. As we find that the Bank complied with the rule and dismissed Thakur Ganga Prasad on a genuine suspicion about his complicity we do not consider it to be a case in which we should interfere. We give no directions, accordingly in this case.

Mr. B. N. Tewari of Kanpur Branch (No. 22):

He was appointed a clerk in 1921 and confirmed in 1924. On 9th November 1940 his pay was reduced from Rs. 71-8-0 to Rs. 50 and again restored to Rs. 71-8-0 on 7th January 1941. On 19th September 1947 he was asked to submit an application for retirement but was later on allowed to continue in service. His complaint is that on 7th November 1947 his pay was fixed at Rs. 90 with no further increments, and he was not placed in any grade, and that he has been deprived of the benefit of the Award of Mr. R. Gupta. The Bank's case is that in December 1940, the District Manager, Kanpur branch reported that his work was much below the standard expected from an employee

of his seniority, and that the only work he was capable of doing was writing up the note registers in the cash department. It is further stated by the Bank that his pay was increased from 71-8-0 to Rs. 90 with effect from 1st July 1946 under Mr. Gupta's award and that he was called upon to retire in October 1947, but that an extension of service was granted on condition that he should not receive any further increment in his salary.

It appears from the report of the Manager above-mentioned that he worked in the cash department ever since he joined the Bank where his work consisted in dealing with translations from the vernacular, preparation of returns, etc., and that on account of certain office adjustment he was transferred to the clerical department where he proved of little use. His transfer to the cash department was strongly urged by the Kazanche under whom he had worked in the cash department, which shows that he was considered useful in that department. The Manager retransferred him to the cash department but on a reduced pay of Rs. 50. The officiating Deputy Secretary and Treasurer of the Bank, feeling that there was no justification for the reduction of his salary after 19 years of service, restored his pay to Rs. 71-8-0, adding however, that he must not expect any further increment in his substantive salary. In 1947 his salary was increased to Rs. 90 under Mr. Gupta's award; but in October 1947 he was asked to retire but was allowed to continue his service on condition that he would not receive any increment beyond Rs. 90, although under Mr. Gupta's award the maximum pay of the grade in which he was put was Rs. 126. His appeal to the Secretary and Treasurer of the Imperial Bank against this order was rejected on 7th November 1947 and he was informed that the decision had been arrived at after full consideration. It is contended by Mr. Ghouse that he is entitled to the increment as a matter of course and that as his age was 48 years and 6 months he should not have been asked to retire nor could be permitted to continue in service by depriving him of the due increments till he reached the efficiency bar at Rs. 126. Dr. Gupta on behalf of the Bank contends that the question of payment of increment is dependent upon the quality of the work done by an employee and that increments cannot be claimed as a matter of right. It is, however, obvious that even on the basis of this argument an increment can be stopped only as a punishment; if so, before such punishment is inflicted the normal procedure, of informing the employee concerned of the grounds of the action proposed against him and giving him an opportunity for explanation ought to be followed. It seems to us an extraordinary procedure, in any case to stop an employee's increments in advance as was done in the present case. The order made in this case cannot be allowed to stand, and we direct that Tewari shall be given the increments due under the Award of Mr. R. Gupta and that the arrears due to him until the date with effect from which the Award becomes effective shall be paid to him within a month of such date.

C. D. Saraf:

He was the clerk-in-charge of the Mianwali Treasury Pay Office from 1st January 1945 till it was closed in March 1947 due to communal disturbances. He stuck to his post all alone while the members of his family who were later all killed in the said disturbances, were living at his native place, Chiniot. He made representations to the district Manager, Kanpur, narrating all his misfortunes and requesting that he might be compensated as far as possible. He applied for promotion but was unsuccessful although it is alleged, persons who were junior to him got promotions. His claim is for promotion because of the services rendered to the Bank during the communal disturbances and because of the fact that some of his juniors got promotions. The Bank's case is that since

his evacuation from Mianwali he was posted as the clerk-in-charge of the Pratabgarh Treasury Pay Office and when on the 15th March he asked for promotion he was informed that the question would be considered at the appropriate time along with similar questions relating to other employees. This is also the statement made by the Bank before us. In these circumstances we do not think that any directions from us is called for and we give none.

Rama Kant Jha (*No.* 21):

He was a godown keeper at Dalsingsarai under the Laheriasarai (Darbhanga) branch and was dismissed on the 16th September 1948. He had been appointed on the 4th June 1930, and had, therefore, put in more than 18 years' service. On the 11th May 1948 he applied for two days' leave on account of the anniversary of the *sradh* ceremony of the deceased father. On the 14th May the local agent found him absent from the station and also found the two godowns of which he was in charge and which contained the borrowers' goods open. The agent met him at Samastipur Station when he tried to justify his absence on grounds which were considered unsatisfactory. He had also similarly absented himself without leave, leaving the godown in his charge uncared for, while he had been posted at Janak Road Station. Accordingly, his services were terminated after paying him a month's wages in lieu of notice. On the 14th May he wrote a letter to the local Agent of the Bank saying that having made an application on the 11th May for leave when no order granting the leave came, he went to see the Agent at Laheriasarai and returned by the next available train, that on reaching Laheriasarai he had come to know that the Agent had gone towards Samastipur and that, as the train from the direction of Samastipur came over at Laheriasarai about the same time he returned by that train and met the Agent at Samastipur. He further stated that when he had left Dalsingsarai he had locked one of the godowns himself and that the owner of the other godown had locked the other one. On the 31st May 1948 the Agent at Darbhanga made a report to the Secretary and Treasurer of the Bank to the effect that when he had gone to Dalsingsarai, he had found both the godowns open and learnt that the godown keeper had left telling others that he had obtained leave from the Agent to be present at the anniversary of his deceased father's *sradh*, that when he had come to Samastipur he had met the godown keeper there who had told him that he had gone to obtain permission for leaving his station and that as a matter of fact the godown keeper had not gone to Darbhanga at all. In the same letter he also stated that when Jha had been posted at Janak Road he had similarly found him absent from his station and that after his transfer to Darbhanga he (the Agent) had learnt that he never used to stay over-night, or even the best part of the day, when he had been posted at Janak Road. The letter concluded, "In the circumstances stated above, I am unable with safety to entrust Babu Rama Kant Jha with the charge of godown and shall be obliged if the Head Office will kindly arrange for his replacement as soon as possible". Jha has produced a letter purporting to have been written by the Secretary of his Association to the Station Master at Laheriasarai who has made an endorsement thereon that on the 14th May 1948 the 112 down train arrived there at 10-30 (A.M.) and left that station at 10-55, crossing the 141 up which had arrived at 10-52. This letter with the said endorsement is filed because Jha's story of the two trains crossing at Laheriasarai was characterised by the Bank as false. The local board of the Bank decided this case on the 8th September 1948 when they came to the conclusion that (1) Jha had left the two godowns open, (2) that this statement that the train from Samastipur crossed at Darbhanga, thus enabling him to

meet the Agent at Samastipur, was false and (3) that this was not the first occasion when he had left his station without permission.

It is clear that no explanation as to (2) and (3) was called from Jha Mr. De on behalf of the Association accordingly contended that it could not be said how the three (circumstances had operated on the mind of the Board and that Jha should have been called upon to explain all the three charges and not only one of them).

Hiralal, who was the Agent of the Bank at Laheriasarai in May 1948, was examined as a witness. He said that he considered Jha's previous absence from Janak Road and Jha's having lied about having gone to Laheriasarai as serious and that he took these matters into consideration in making his report. He also said (1) that when a godown keeper asked for leave it was granted on a substitute being found or given, and that if one was supplied by the applicant the latter had to be responsible for the substitute's conduct, (2) that on the 14th May, Ajodhya, the borrower in the case of one of the godowns, deposited the amount due from him and obtained a delivery order, (3) that he had got a writing from the station master of Laheriasarai that the two trains in question did not cross at his station on the 14th May, and (4) that he did not question the station master at Samastipur as to the timings of the trains.

Mr. De has argued that Jha, having applied for leave on the 11th May and not having obtained any orders on his application, would very naturally want to go Laheriasarai to find out whether he could attend his father's *sradh* ceremony and that the endorsement on the letter produced by Jha shows, that the two trains did cross at Laheriasarai, so that one of the grounds which influenced the Local Board in dismissing Jha was not correct. As to Ajodhya's godown he contended that either the delivery order was shown to Jha before he left his station or that Jha acted on confidence reposed in Ajodhya, the responsibility being his and the time at his disposal being very short. As to the other godown he contended that Jha might have left the key with the manager in whom he had full confidence. That such confidence was justified in the both cases was shown according to Mr. De, by the fact that the Bank had not incurred any loss, so that Jha's conduct would be irregular at the worst and, the therefore, the penalty imposed on him was excessive.

We are inclined to hold that there is considerable force in Mr. De's argument. The Local Board of the Bank was certainly not justified in terminating Jha's services when he had been asked to explain only one out of the three circumstances which were considered by the Board and when, according to the local Agent, the other two circumstances on which his explanation was not obtained were considered by him as serious. As the letter of the station master produced by Jha shows, he was in all probability not lying on the point of the trains having crossed at Laheriasarai on the 14th May and there is a great deal of probability in his story that not having obtained the leave he had applied for and time being short the thought of going to Laheriasarai in person to enquire what had become of his application. He probably did not tell the truth when he said he had locked one of the godowns himself and that the other godown was locked by its owner. In all probability he knew that Ajodhya, the owner of one of the godowns, had obtained or was going to obtain a delivery order and that as regards the other godown its manager could be trusted to see that no part of the borrowed goods was removed in his absence. In the case of both the godowns if any loss occurred he would be personally held responsible. It appears to us that the Local Board took an unduly serious view of Jha's conduct though it was not above reproach. In the circumstances the ends of justice

will be sufficiently met, in our opinion, if he is reinstated but is not given any wages or allowance for the period between his dismissal and the date of his reinstatement, and we direct accordingly.

Rama Kant Agnihotri (No. 25):

He belonged to the Sitapur branch and was dismissed on the 10th December 1948. The Bank's case against him is as follows. He was arrested on the 10th December 1948 on account of his activities as a memeber of the Rastriya Swayam Sevak Sangh, a political organization which had been declared unlawful by Government, and was sentenced to undergo three months' rigorous imprisonment and a fine of Rs. 500 or in default, a further six weeks' rigorous imprisonment. As a result of his arrest and imprisonment he was unable to carry out the terms of the contract with the Bank and was, therefore, dismissed with effect from the 10th December 1948. The complaint of the employee is that no charge was given made on the 18th April 1949 and it was stated therein that it was to have retrospective effect from the 10th December 1948. From the 10th December 1948 to the 20th January 1949 he was given privilege leave and the Bank now wants a refund of Rs. 163-13-2, being the excess of pay drawn by him after the 10th December 1948. The complaint of the employee is that no charge was given to him and no explanation called for and that paragraph 48 of the Book of Instructions was not followed. That paragraph reads thus : "No employee of the Bank can be dismissed without his case having been first submitted to the local Head Office for orders. A full report must be sent to the local Head Office, accompanied, if possible, by the employee's explanation of the offence with which he is charged". It was pointed out that the Government's ban on the R.S.S.S. had now been removed and it was suggested that he should be reinstated with effect from the date when the ban was removed. It was contended on his behalf that when Government removed the ban on the R.S.S.S. his case ought to have been reviewed by the Bank, that as his imprisonment for belonging to an unlawful organization did not necessarily involved moral turpitude or make him unfit to discharge his duties. He should now be reinstated and that the Bank should not be allowed to recover Rs. 163-13-2 from him. We are unable to accept this contention for it cannot be said that the Bank was not justified in terminating his services when he was convicted by a Court of law, and it was not incumbent on the management to make a distinction between a conviction involving and one not involving moral turpitude. As the order regarding dismissal was properly made, we are not inclined to interfere, except giving the direction that the amount he had been asked to refund should not be recovered from him and leaving his case to be reviewed by the Bank authorities if they deem such review necessary or desirable.

Prakash Chand Chopra (No. 33):

The Bank's case against him is as follows : He took leave in Mach 1947 on the plea of his mother's illness and this was found to be false on enquiry. He was thereupon instructed to resume duty at once at Abbotabad and was informed that if he failed to do so he would be considered as having voluntarily vacated his appointment. Thereafter he stated that he was not prepared to go to Abbotabad and asked for transfer to some station in the Indian Dominion, which request according to the Bank, was refused on principle as otherwise the Bank would have been inundated with similar applications from other employees which it would have been impossible to grant. Chopra had a poor record of service and his services were terminated after paying him one month's salary in lieu of

notice. He had been appointed on 11th December 1941 and he was on leave from March 1947 to the 8th September 1947. In a report made by the officiating Manager of the Lahore district to the Secretary and Treasurer dated the 31st August 1947 a statement is given of the different occasions on which Chopra had applied for leave and it was stated that on the last occasion (14th July 1947) he was told to resume duty forthwith at Abbotabad failing which he would be considered as having voluntarily vacated his appointment. To this Chopra replied on the 24th July 1947 that he was still unwell and was being treated and that he would not be prepared to go Abbotabad branch " where hundreds and thousands brethren of mine have been slaughtered like dogs and deprived of their property by means of violence. The place where the life is quite uncertain and unguaranteed, the question of going in that area does not arise. I am under no circumstances going to vacate my job and again and again request the authorities to transfer me to a place where I should be safe ". It is admitted that communal disturbances broke out in the Frontier Province in March 1947 and that the Abbotabad branch had to be closed in November 1947. On the 8th September 1947 Chopra wrote to the Agent of the Imperial Bank of India at Abbotabad that due to unsafe conditions of travel and absence of communications, on the expiry of his leave on the 8th September 1947 he had reported for duty at the Bank's pay office at Nabha instead of joining at Abbotabad and he further asked for instructions suggesting that he should be posted in the East Punjab. On the 9th September the clerk-in-charge of the Nabha pay office wrote to him saying that his letter would be forwarded to the Ludhiana Head Office for necessary orders at his risk and responsibility as in those days the pay office was cut off from Ludhiana, no mail having been received from Ludhiana during the previous two weeks. On the 9th October 1947 Chopra wrote to the Agent, Imperial Bank at Ludhiana, again suggesting that he should be posted if possible to the Nabha pay office. A reply was sent to this letter by the Agent at Ludhiana on the 27th October 1947 that he " may report at Ambala Cantonment branch when further instructions regarding your posting will be issued to you by that branch." It will be observed that this date is after the date of his dismissal, *viz.*, the 17th September 1947, and this suggests that communications in Punjab were in a very disturbed condition at the time. In a letter written by him to the General Secretary, Imperial Bank of India Indian Staff Association at Calcutta, he stated that he had received a letter from the Abbotabad branch that his services had been dispensed with on the 10th November 1947 though the said letter was dated the 17th September 1947. On the 27th November the General Secretary of the said Association wrote to the Secretary and Treasurer of the Bank drawing his attention to Chopra's letter of the 10th November. In reply the Deputy Secretary and Treasurer said that Chopra's case had been fully investigated there and that were good and sufficient reasons for dispensing with his services. It seems that thereafter Chopra again asked by a letter dated the 17th February that he should be reinstated. To this the District Manager of the Lahore Branch replied that he could not be reinstated. Mr. De contended that in the circumstances that were prevailing at Abbotabad when the branch actually had to be closed in November the Bank was not justified in ordering that Chopra should go there at the almost certian risk of being killed. That in our opinion is the correct view to take in this case. Chopra more than once mentioned to the Bank about the disturbed conditions prevailing at Abbotabad and after the expiry of leave wanted to be posted in the East Punjab. The Bank acted on the ground that the granting of Chopra's application might have resulted in a large number of similar applications pouring in which it would have been impossible to grant. But that was not the only circumstances to be considered in his case. We are unable to hold on the facts

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of this case that the non-compliance with the Bank's order showed such insubordination or disregard of duty as to merit dismissal. It seems likely that the authority which made the order was not fully aware of the state of the communal disturbances prevailing at the time or knowing the circumstances took a callous view of Chopra's responsibility and the risk to his life in case he complied with the order. We, therefore, direct his reinstatement and allow him his pay and allowances for one year prior to the date of his reinstatement.

Brijesh Narain Tewari (*No.* 40):

He was a cashier at the Jhansi branch and was dismissed on the 11th June 1948. He had joined service in 1939. The case against him is this. A shortage of Rs. 10,000 was found in the hand balance of one Debi Prasad, a cashier at the branch and it appeared to have disappeared while Debi Prasad had gone out to the lavatory. Tewari, who had obtained leave for that day, came to the Bank and remained in the cash department with an outsider named Baijnath when Debi Prasad had gone out. After the occurrence Tewari left the Bank. He was later found to be trying to interfere with the police proceedings. He was arrested but was not prosecuted for want of evidence. In view of these facts and the adverse report made by the police against him his services were terminated after paying him one month's salary in lieu of notice. In the report made by the local Agent to the Manager, Kanpur district, it was stated that the Head Cashier alleged that during the interval that Debi Prasad was absent he did not observe anybody in the cash department and that Debi Prasad could not give any satisfactory explanation as to why he had not locked his box when he had gone to the lavatory. It was further stated by the Agent that the branch Head Cashier J. N. Khanna was unable to make good the loss immediately but Rs. 10,000 were being debited against the protested bills account and that a letter from Mr. Khanna undertaking responsibility for the acts and intromissions of Debi Prasad was on the record of the branch. Mr. Khanna who had given a security deposit of Rs. 10,000 had not however, taken any security deposit from Debi Prasad. This letter does not suggest anything against Tewari and it is obvious that Debi Prasad was extremely careless in leaving his box open when he went to the lavatory.

On the 14th April 1948 the officiating Manager of the Kanpur district made a report to the Secretary and Treasurer of the Bank regarding this incident in which it was suggested that Tewari might have conspired with the Head Cashier to deprive Debi Prasad of Rs. 10,000, and that Tewari was a man of suspicious character and lived beyond his income and was reported to be the right hand man of the Head Cashier. The officiating Manager added, "We understand that he is one of the members of the clique in the cash department of your Bank and it appears that he is the chief person in involving Debi Prasad of Rs. 10,000." The Police expressed the opinion that Tewari was responsible for the removal of the bundle and that he should under no circumstances be allowed to work in the Bank. On the 23rd April Mr. Blair, officiating Secretary and Treasurer wrote to the District Manager, Kanpur suggesting that the Head Cashier's services should be terminated as early as possible and that he should obtain from the police as early as possible their written confirmation of their allegation regarding Khanna and Tewari. The Superintendent of police, Jhansi made a report regarding this offence on the 26th April 1948 in which he expressed the view that Tewari, Debi Prasad and Khanna were the chief persons responsible for the theft but that definite evidence could not be obtained against any of them. On the 2nd June 1948 the Secretary and Treasurer prepared a memorandum for the Local Board in which it was stated that the police, had confirmed

in writing their suspicion of Babu Tewari and in view of the adverse comments on his character he could not be considered fit for retention in Bank's service. Accordingly his services were dispensed with. When the Agent at Jhansi wrote to Tewari on the 11th June to the effect that it had been decided to terminate his services forthwith Tewari wrote on the 30th June that he had not been told the reasons for the termination of services. Again on the 6th August 1948 Tewari wrote to the District Manager, Kanpur, that he wanted to know the reasons which had led the Bank to terminate his services abruptly, even without framing a charge and calling for his explanation, and that the decision of the Bank was very arbitrary, unjust and against all canons of justice. It was contended by Mr. De that if certain circumstances had led the Bank to conclude that Tewari was involved in the theft of the notes he should have been informed of those circumstances and given an opportunity to explain and that as this was not done the action taken against him was not justified. It seems to us, however, that in the course of the police enquiry and the investigation by the Bank the circumstances appearing against him could not have remained unknown to Tewari and that he had sufficient opportunity of explaining his conduct. There can be no doubt that the circumstances throw a considerable doubt on Tewari and that the Bank would be justified even in acting on suspicion in the circumstances of this case. We, therefore, give no directions in this case.

Ram Sewak (*No.* 42):

He was a temporary peon at Jhansi having been appointed on the 17th October 1946 and dismissed on the 21st January 1949. The reasons alleged by the Bank for his dismissal were that he was impertinent and used to misbehave and shirk work and that in spite of warnings he did not improve. When the time for his confirmation came the Manager at Kanpur District office wrote to the Agent at Jhansi on the 20th February 1948 that the question of his confirmation should be deferred for a further period of three months and monthly reports regarding him should be sent and that he should be warned that he must improve his conduct if he wanted to be retained in service. On the 6th November 1948 the Agent at Jhansi reported to the Manager of the Kanpur District Office that Ram Sewak had shown steady improvement in his behaviour but that he had not got rid of his habit of shirking work. On the 4th January 1949 the officiating Manager of the Jhansi Branch wrote to the Secretary and Treasurer that the attitude of Ram Sewak towards other members of the staff was often far from satisfactory, that he lacked willingness to work, that he was impertinent to the head messenger of the branch and refused to carry out the duties allotted to him. He further stated that he had issued a written warning that Ram Sewak would not be confirmed in service until he showed a substantial improvement in his work and behaviour towards the other members of the staff and that strict action resulting in his dismissal would be taken in case he failed to perform his duties to the entire satisfaction of the Bank. He also wrote that according to the Local Agent, as Ram Sewak had not shown improvement in his work and that as his work had given rise to complaints from a few customers regarding misdelivery of their letters by him, his services might be terminated. The officiating Manager reported that he was not fit for retention in the Bank's service and that his services might be terminated without assigning any reasons therefor. On the 21st January 1949 the local Agent wrote to Ram Sewak to say that it had been decided to terminate his services with effect from that day and he enclosed with his letter a payment order of Rs. 30 due to him in lieu of one month's notice. On the 18th February 1949 Ram Sewak wrote a letter to the Conciliation Officer, Department of Labour, Lucknow, that the real reasons

for his services having been terminated were; (1) that he used to be called upon to attend on the Agent while he played badminton up to 7 P.M. every day, (2) that once he had been asked by the Agent to take his shoes for repairs, when he had asked the Agent to require some sweeper to do this work, (3) that in December when he had some guest in his house he had requested the Agent to get some one else to attend on him, which request had enraged the Agent, who had warned him that he would be discharged and (4) that as he used to leave his duties after office hours, he used at first to show the correct time of his departure, in the muster roll, but that owing to threats he was made to show such time as the time when the Bank used to close. In his letter he further stated that if there was anything against him he should be given a charge sheet and asked to state his defence. In a subsequent letter dated the 17th April 1949 written to the Secretary and Treasurer of the Bank Ram Sewak, with reference to the entries made by him in the muster roll, said, "I was putting always correct time but I was forced to alter the figure," and he again raised the question why no regular charge had been given to him in writing. On the 2nd May 1949 the officiating Manager, Kanpur district enclosed a copy of a letter which he had received from the Jhansi Agent in a letter he addressed to the Secretary and Treasurer of the Bank, in which the Jhansi Agent had characterised the allegations of Ram Sewak, except the one as to the Agent's shoes incident, as mischievous and with regard to his allegation regarding the muster roll he had stated that on reference to the Branch attendance register he had failed to notic any incidents where the entries originally made appeared to have been subsequently altered. The Agent had further written, "I may add in this connection that I have enquired and may assure you that no member of the subordinate staff is ever called upon to perform private work for the Agent and the working hours fixed for them under the Tribunal's award are strictly observed".

Mr. De drew the attention of the Tribunal to the memorandum dated the 18th June 1947 which was sent by the Head Office to all the Branches in which the local officers were asked, in reporting against an employee, that the Book of Instructions should be followed, that full facts should be stated and that it was not sufficient to make statements of a general nature. The Bank filed the muster roll kept by the Jhansi Branch. The muster roll shows certain days on which Ram Sewak had arrived for duty as early as 6-30 or 7-30 A.M. and left work at 7 P.M. The working hours in the office are usually upto 5 or 5-30 P.M. On four Saturdays, *i.e.*, on 21st August 1948, 8th January 1949, 14th February 1948 and 15th January 1949, Ram Sewak, according to the muster roll, worked till 4-40 or 5-20 P.M., i.e., for 7 or 8 hours when the usual time for leaving work on Saturdays was 2 P.M. It was suggested on behalf of Ram Sewak that this timing shows that he must have been working at the Agent's residence and not in the Bank. It was further contended that no particulars regarding his alleged misbehaviour or impertinence or shirking work were either supplied to the Tribunal or put to the employee for his explanation. As regard the allegation of his shirking work it was contended that it must have consisted in his not doing the Agent's private work properly. His record was no doubt satisfactory up to the entries made for September 1947 and December 1947. Thereafter Mr. Gambhir came there as the Agent and the bad entries began. Mr. Gambhir at first recommended Ram Sewak's confirmation but in February 1948 he cancelled such recommendation which had been made in his letter dated the 31st December 1947. Mr. Gambhir came to the branch in December 1947. During his time two warnings were given to Ram Sewak, on the 23rd February, and the 4th March 1948, though no explanation seems to have been taken from him

On the 6th November 1948 a remark was made in one of the letters of the Bank that he had shown "steady improvement".

It seems from the entries in the muster roll referred to above that in all probability Ram Sewak was actually kept at the house of the Agent for attending to the latter's private work and that when at times he refused to do such work he fell into disfavour with the Agent. His conduct might perhaps otherwise not have been quite satisfactory but it seems to us that this was essentially not the cause of the dismissal. We, therefore, direct that he be reinstated and paid his pay and allowance for the four months next preceding the reinstatement.

S. D. Misra (*No.* 43):

This case being one of 1943 the Tribunal gives no direction.

K. N. Sarebahi (*No.* 39):

This case was not pressed and therefore no directions are called for.

Sri Krishna (*No.* 11):

His complaint is that his pay for two days was forfeited in the following circumstances. On the 5th February 1949 he was absent for two days without previous application. He was called upon to explain his conduct but his explanation for not having applied for leave has not been produced. He had due to him privilege leave for 9 days and casual leave for 8 days. Dr. Gupta on behalf of the Bank agrees that the Bank would pay his salary for the two days provided he undertakes not to absent himself in future without previous application except in circumstances mentioned in the Deputy Secretary and Treasurer's letter No. Staff/170, dated the 2nd April 1949 to the General Secretary of the Employees' Association in which he stated, "We consider that an employee should ordinarily apply for casual leave in advance in the same way as for privilege leave. However, in the event of an employee being unable due to unforeseen circumstances to make prior application, he can send explanation of his failure to do and his absence will be treated as casual leave that is due to him". In the circumstances no order of the Tribunal is called for.

T. S. Phoola (*No.* 23):

He was a garden *mali*. He alleges that his services were terminated after he had been made to sign a letter of resignation and that when he did that he thought that what he was signing was an application for leave. There is no evidence in support of this allegation and the Bank's case is that he voluntarily vacated his appointment in favour of his brother on the ground of his ill-health. It was suggested by Mr. De that he might be considered for re-employment if a suitable vacancy occurred. This suggestion should be recommended for consideration of the Bank.

Anant Prasad (*No.* 34):

His complaint is that his increment has been stopped. He was appointed in September 1943 and confirmed in March 1944. An increment was due to him on 1st January 1947 under Mr. Gupta's award (he belonged to Grade II Junior scale of Rs. 70—4—126—E. B.—130—5—175). In December 1948 he was getting Rs. 78 per month. Mr. De contended that as long as he was in service he must automatically get the increment under the award except where he had to cross the efficiency bar. Dr. Gupta questioned this proposition and pointed out that the following are evidence of the Bank's *bona fides*: (1) that when previously warned Anant Prasad had made no protest suggesting that the warning

was not justified and (2) that though a warning was given in 1947 he got the increment due on 1st January 1948. It was pointed out by Dr. Gupta that though previous warnings had been given there was no improvement. After the warning given in 1947 two other warnings appear to have been given and yet it seems that no improvement was found and therefore the Bank stopped his increment. The stoppage of an increment when there is no question of crossing the efficiency bar must ordinarily be regarded as a punishment and before such a stoppage is enforced natural justice would require that the employee in question should be given opportunity to explain the circumstances found or alleged against him. Although this was not done in this case Anant Prasad, who appears to have been given at least three warnings, could not have been unaware of the fact that his work was found unsatisfactory by the authorities, and the fact that after the first warning his increment was not stopped shows sufficiently the *bona fides* of the Bank. In these circumstances we give no directions.

Kebal Ram (No. 45):

He was a godown watchman under the Gorakhpur branch at the Sakserai Sugar Mills, Ltd. His complaint is that he has put in 23 years service but he has not yet been confirmed. According to the Bank this employee is entitled to all privileges of the permanent staff, such as gratuity, but as he was attached to the mills he would have to go if the mills were closed down and therefore he is not made permanent. All godown watchmen according to the Bank are temporary. Dr. Gupta has filed a copy of a circular dated 1st August 1949 regarding emoluments for godown *darwans*. It shows that such *darwans* enjoy the same privileges as permanent non-pensionable members of the subordinate staff, *e.g.*, as to gratuity. Mr. De now has no grievance as regards this employee and suggests that no order is necessary. We do not give any directions in this case.

Dalim K. Chatterjee. (No. 18):

He was a teller at the Howrah branch and was suspended on the 15th May 1949 and is still under suspension. On 14th May 1949 the Agent of the Howrah branch complained that a bundle of ten packets of 5 Rupee notes, each containing 100 notes, was missing from the receiving section in the cash department and that there was a shortage of 5,000 rupees in the balance pertaining to that section. It was alleged that the cashiers Dalim K. Chatterjee and Gopi Nath Roy were responsible for the day's receipts, that Dalim K. Chatterjee gave a bundle of Rs. 5,000 of 5 rupee notes to a cooly named Ganga Routh to be tied into a bundle, that the latter tied the notes and placed the bundle on the table and that thereafter that bundle was missing. The Sub-Divisional Magistrate, Howrah, before whom the case was put up remarked, "The arrested persons have good records to their credit. Nothing incriminating could be had against them. It is suspected that some outsider gang is responsible for this offence. Over and above, it is learnt that suspects one and two (suspect one was Dalim K. Chatterjee) have signed a deed promising to pay up the lost money by halves each. As such there is no point as to why they should commit this theft to the risk of their job." The accused in that case were accordingly discharged. The other cashier, *viz.*, Gopi Nath Roy has been allowed to resume duty after paying or agreeing to pay Rs. 2,500 out of the amount of Rs. 5,000 which was lost. Chatterjee does not want to work under his old superior, the Head Cashier, who is related to him and he has paid Rs. 900 out of the sum of Rs. 2,000 demanded from him. Mr. De suggests that the Head Cashier being also held responsible for the loss should pay one-third of the Rs. 5,000 and that as Chatterjee has paid Rs. 900, on

his paying the difference between 1/3rd of Rs. 5,000 and Rs. 900, *i.e.*, Rs. 734-5-9 he should be reinstated. We think that that would be the proper order to make in this case, and we direct accordingly. We further direct that on his making the payment the suspension order shall be set aside and he should be paid his salary and allowances for the six months next preceding his re-instatement.

Shyam Kishore Shukla (No. 15) :

He was appointed a clerk at the Sitapur Branch on the 5th July 1946. He was dismissed on 14th October 1947. The cause of his dismissal was that he had extracted two pages out of one of the Bank's registers. In a letter, dated 6th September 1947 he admitted that he had removed the pages and the reason given by him was that some ink got split over the two blank pages and he thought it best to remove them from the register. This explanation was considered thoroughly unsatisfactory, and as the Bank considered the retention of such a man in service as undesirable he was dismissed. It seems to us on the facts that this is not a case of victimization and we are not, therefore, prepared to make an order for re-instatement. He has claimed an amount of Rs. 178-12-5 as the amount due to him under the Award of Mr. R. Gupta, from 5th July 1946 to 14th October 1947, *i.e.*, from the date of his appointment up to the date of his dismissal. On behalf of the Bank it is contended that he is not entitled to this amount as the Award did not apply to an employee not in the service of the Bank. We are unable to accept this contention. The Award of Mr. R. Gupta was published in the *Calcutta Gazette* on 6th September 1947 and the Award was given effect to from 1st July 1946 and as the appointment of this employee having been made on 5th July 1946 and his services having been terminated on 14th October 1947, he is clearly entitled to this sum of Rs. 178-12-5. We, therefore, direct that this sum be paid by the Bank to him within a month from the date with effect from which the Award becomes operative.

Ram Saran Shukla (No 16) :

He was a cheque-book issuing clerk in the Kanpur branch. He was appointed on 16th August 1942, suspended on the 6th June 1946 and dismissed on the 12th September 1947, *i.e.*, more than 19 months after the date of his suspension. The ground alleged for the dismissal is that he was suspected by the Bank to be implicated in the forgery of a cheque for Rs. 5,000 which was encashed on 31st May 1946. According to the Bank the delay between the dates of the suspension and dismissal was due to the fact that the matter was under investigation by the police and as the police did not complete the investigation, the Bank not wanting the time for suspension to be further prolonged dismissed Shukla because the Bank's suspicion against him was based on strong circumstantial evidence. The complaint of the employee is that no explanation was asked for, that he was not at all suspected at the beginning, that it was only in a letter written on the 12th June 1946 by the Officiating Deputy Secretary and Treasurer that it was made to appear probable that the check form used by the forger had been extracted from the cheque book before it had reached the constituent, and that since then he came to be suspected because the officiating manager of the Kanpur branch came to believe that his handwriting closely resembled that appearing on the forged cheque. This was stated in his letter to the Secretary, and Treasurer, dated the 18th June 1946. Although Rule 48 of the Bank's Book of Instructions

requires that no employee should be dismissed without having been given an opportunity to explain, in this case no explanation was asked for regarding the alleged resemblance of his handwriting to the writing on the cheque. The circumstances relied on by the Bank are (1) that he was the cheque-book issuing clerk, (2) that in the opinion of the officiating Manager his handwriting closely resembled the writing on the forged cheque, (3) he was suspected by the police and arrested and (4) he did not protest to the Bank authorities against his arrest. These circumstances no doubt might raise a suspicion, but as against them are certain other circumstances, for instance, an acknowledgment receipt of the cheque book granted by the constituent, which may be said to raise the presumption that the cheque book had been received by him intact, so that the cheque might have been removed while it was in the custody of the constituent; there is also the opinion expressed by the Agent in a letter, dated 3rd June 1946 and addressed to the Manager, Kanpur district that the branch clerical staff was responsible for extracting the cheque form, forging the signature of the constituent, affixing the pay stamp on it, forging the passing official's signature, giving the cheque a cash roll number, furnishing the person who obtained payment of the cheque with the requisite token and filling in the space intended for the ledger keepers initials in the ledger folio. We do not know if all these matters were taken into consideration by the management in dealing with this case. In any case some light might have been thrown on these and other relevant matters if the employee had been afforded an opportunity to give an explanation. The omission to do so in this case appears to go to the root of the whole case and we are unable, therefore, to let the dismissal order stand. We, accordingly, direct that Ram Saran Shukla shall be reinstated and that the arrears of salary from the date of his suspension to the date of his reinstatement shall be paid to him within a month from the date from which the Award comes into operation.

K. C. SEN,
Chairman.

J. N. MAJUMDAR,
Member.

BOMBAY;
Dated the 20th February, 1950.

S. C. AGGARWAL, *Dy. Secy.*

(Vide *Gazette of India*, Part I—Section I, dated March 18, 1950, pp. 350-361).

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GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 22nd March 1950

LR-2 (260)/I.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All-India Industrial Tribunal (Bank Disputes), in the matter of alleged victimization, wrongful dismissal, etc., of workmen of certain banking companies in the States of Punjab and Delhi.

BEFORE THE ALL-INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Bank of Bikaner, Limited,
National Bank of Lahore, Limited,
Hindustan Commercial Bank, Limited,
United Commercial Bank, Limited,
Bharat Bank, Limited,
Punjab National Bank, Limited,
Allahabad Bank, Limited,

AND

Their Workmen.

In the matter of alleged victimization, applications under section 33, etc., in the States of Punjab and Delhi.

Appearances :

Mr. Jagannath Anand, Advocate, with Mr. V. S. Kapoor, for the Bank of Bikaner.
No appearance for the National Bank of Lahore.
Mr. K. N. Bhatnagar, for the Hindustan Commercial Bank.
Mr. D. R. Patney, for the United Commercial Bank.
Mr. Ram Sahai, General Manager, for the Bharat Bank.
Mr. Ram Lal Anand, with Mr. Somesh Chandra, for the Punjab National Bank.
Mr. J. R. Sharma, for the Allahabad Bank.
Mr. S. P. Kapoor of the Bank of Bikaner, in person.
No appearance for the employees of the National Bank of Lahore.
No appearance for the Hindustan Commercial Bank Employees' Union.
Mr. Dhunichand Mehra of the United Commercial Bank, in person.
Mr. H. L. Parwana with Mr. D. P. Burman, for the Bharat Bank Employees' Union, Delhi.
Mr. H. L. Puri with Mr. Madan Lal D. Sabharwal, for the Punjab National Bank Employees' Union, Delhi.

Mr. Dharam Vir Taneja, for the Punjab National Bank Workmen's Union, Delhi.

Mr. H. L. Dogra with Mr. Vidya Sagar, for the Punjab National Bank Employees' Union, East Punjab.

Mr. Dayal Das Khanna, for the Allahabad Bank Employees' Union, Delhi.

AWARD

The cases which are dealt with in this Award were heard at Dehra Dun from the 6th January to the 12th January 1950.

Two applications for retrenchment under section 33 of the Industrial Disputes Act were heard, *viz.*, those of the Bank of Bikaner and the National Bank of Lahore. In two other cases, *viz.*, in the case of certain employees of Hindustan Commercial Bank and the United Commercial Bank, the employees complained that there has been victimization and the Bank's defence was that they had to retrench the persons concerned. The cases of the latter two Banks, will, therefore, be included in the cases of alleged victimization.

BANK OF BIKANER

This Bank wants to retrench one Shri S. P. Kapoor in the circumstances stated by the Bank as follows. He is a senior clerk in the Accounts Department and holds a power of attorney. The Coimbatore Branch of the Bank required the services of a Head Clerk and Kapoor was transferred there with his consent. He was paid Rs. 100 as advance for the railway journey. He was relieved from Delhi on 21-7-1949 and he should have been at Coimbatore on 2-8-1949 after availing himself of the due joining time. The Bank, however, did not hear from him till the 6th August when they received a letter dated the 1st August from him despatched from Amritsar asking for 20 days' leave on medical grounds, a medical certificate being enclosed with the letter. It seemed that he had passed through Delhi without advising the Manager and proceeded to Amritsar without even sending a telegraphic intimation to the Bank. His action was thus held to be irresponsible and as amounting to gross negligence and disregard of the standing instructions of the Bank. The Bank, therefore, wants his services to be terminated.

Kapoor states that he purchased a ticket for Jhansi where he wanted to halt in order to see some of his relations; that at Jhansi he got severe fever and he came back to Amritsar from where he sent an application for 20 days' leave, with a medical certificate; and that on the 2nd September he got a letter from the Head office informing him that he had been suspended with effect from the 21st July, the date when he had been relieved. He further says that he had acted at Muzaffarnagar as an Accountant up to the 13th March 1949, that he had been the President of the local Union there, that at Delhi he was an active member of the Delhi Union and that he did not want to go to Coimbatore but that as he was threatened with dismissal he had agreed to go there. On behalf of the Bank it was contended that Kapoor should have produced a receipt from the Railway showing that he had brought a ticket up to Jhansi and that he should have at least given the number of his ticket and sent a telegram from Jhansi. It was further alleged by the Bank that on former occasions also he had taken leave on false pretexts, for instance, when from the 10th to the 20th July he was on leave without pay. On that occasion he had promised to send a medical certificate but he did not send it. Kapoor says that he has never taken a receipt from the Railway authorities to show that he had bought a particular ticket and that this fact can be seen from his travelling

allowance bills. As to his leave from the 10th to the 20th July he says that on that occasion he was treated at Delhi by a Hakim and that the Bank would not accept a certificate from him. It seems to us that Kapoor could not have liked the idea of going to Coimbatore, so far from his home and his province, and that for some reason the Bank ordered his transfer there as a mode of punishment. On behalf of the Bank it is stated that before the 21st July he had been called to explain three items, for two of which he expressed regret and as to the third, a clerk named Goel was at fault and Kapoor had asked Goel to give the number of a cheque in connection with the said item but did not later on see whether Goel had complied. Nothing, however, was done after getting Kapoor's explanation on the three items and it is not the Bank's case that the transfer was based on anything in connection with those items. That being so, it does not appear unlikely that the punitive measure of sending him so far from his home was taken on account of his activity as a member of the local Unions. He has said that at Muzaffarnagar he was the President of the local Union. That has not been denied. He was there till the 13th March 1949 after which he came to Delhi where, according to him, he was an active member of the local Union. It may be that because of his intense dislike for going to Coimbatore he sent his leave application on the pretext that he had fallen ill. At the same time there is nothing to show that the medical certificate sent by him is false. It seems to us that in this case the Bank was not justified in sending him to Coimbatore so shortly after he had been transferred to Delhi. We also find that Kapoor is not being paid any suspension wage since his suspension on the 21st July 1949. The proper direction in this case would, therefore, be that the application cannot be granted, that the order of suspension should be set aside and that Kapoor should be paid, within a month of the publication of this Award, the pay and allowances that he would have earned if he had not been suspended with effect from the 21st July 1949.

NATIONAL BANK OF LAHORE

This Bank had made an application to the effect that having recently closed one of their offices at Delhi and there being some surplus staff which cannot be utilised, the Bank should be allowed to terminate the services of such surplus members pending decision by the Tribunal of the bank disputes. The Bank did not appear nor did it furnish any particulars regarding the individual members of the staff who are sought to be retrenched. In these circumstances we reject the application. We now proceed to consider the cases of alleged victimization.

HINDUSTAN COMMERCIAL BANK

The Hindustan Commercial Bank Employees' Union complained that the following members of the Staff at Ludhiana branch had been dismissed :

Name	*Designation*	*Date of appointment*
Om Prakash Nayar	Clerk	10-12-1944
B. K. Chum	„	11-3-1945
K. L. Sanan	Head Cashier ..	28-12-1948
Ved Prakash	Assistant Cashier ..	13-1-1949
Sarwan Singh	Guard	10-10-1947
Rala Singh	„	14-8-1945
Kirpal Singh	Peon	1947

The Union has also complained that the following members of the staff at Ambala City have also been dismissed :

Name	*Designation*	*Date of appointment*
Gurcharan Singh	Clerk	2-1-1947
Prem Sagar	Head Cashier	21-12-1945
Jai Gopal Garg	Asst. Cashier	19-12-1947
Lachhman Das	Peon	22-4-1947
Durga Das	Guard	4-2-1949

The Bank's statement is that the offices at Ludhiana and Ambala since their very inception had been running at a loss and that the Bank's Board of Directors, therefore, decided to close both of them with effect from the 31st July 1949. Instructions were, therefore, issued that the services of the following members of the staff would be terminated after paying them a month's substantive salary in lieu of notice on the ground that they were surplus, after the closure of the two offices :

Ludhiana Sub-Branch

1.	Om Prakash Nayar	Clerk
2.	B. K. Chum	Clerk
3.	K. L. Sanan	Cashier
4.	Ved Prakash	Cashier
5.	Sarvan Singh	Guard
6.	Rala Singh	Guard
7.	Kartar Singh	Peon

Ambala Sub-Branch

1.	Gurcharan Singh	Clerk
2.	Prem Sagar	Cashier
3.	Jaigopal Garg	Cashier
4.	Lachhman Das	Peon
5.	Sant Singh	Guard

It will be noticed that the last names under the two sub-branches are different from those appearing in the application of the Hindustan Commercial Bank Employees' Union. The Bank has further stated that it was found possible to absorb Mr. Om Prakash Nayar in a permanent vacancy at the Jullundur City sub-branch where he is at present working. It was further stated that a part of the staff at the two sub-branches could be absorbed at other branches of the Bank. The Bank's statement concludes thus—

> "The decision of terminating the services of employees was taken up by us much earlier than the restriction was imposed on us, *vide* Government of India order No. I.R. 2/2261 of 2nd August 1949, and the services of employees were actually terminated before this order came into force and had we been aware of it we would have certainly obtained your permission to terminate their services as we have done now in so many other cases where the employees were surplus to our requirements and therefore there was no alternative for us but to terminate their services and we do not think that this tantamounts to victimization."

Apart from the question whether in these cases the Bank should have made an application under section 33 of the Act does not appear to us that the retrenchment carried out were not *bona fide* and not necessitated by the circumstances. It is, therefore, not possible to regard these cases as cases of victimization. We, therefore, give no direction in these cases.

UNITED COMMERCIAL BANK

Dunichand Mehra.—His complaint is that he was improperly discharged on the 30th April 1949. He had been appointed on the 4th October 1944 as Assistant Cashier at the Amritsar branch. He says that during his period of service there was no complaint about his work or conduct and that even under very difficult conditions, when the communal frenzy was at its height, he attended to his work there without any break or interruption. He has further said that prior to his joining this Bank he had been working as cashier with the National Bank of India Ltd., on a post which was pensionable and that this Bank prevailed upon him to resign from the National Bank of India Ltd., (on a post which was pensionable and that this Bank prevailed upon him to resign from the National Bank of India) and to join it. He is now about 50 years old and he has a large family to maintain. He wants either reinstatement or a suitable gratuity so that he may settle down somewhere in business. The Bank states that this is a case of retrenchment as the business at Amritsar had been falling rapidly and the bank was running at a loss a part of the staff had to be retrenched and it is not found possible to absorb this employee elsewhere because the treasurers and chief cashiers would not undertake responsibility for an unknown man. The Bank has filed a statement regarding the reduction made at Amritsar which shows that instead of four Assistant Cashiers there is only one now. It is said that the Chief Cashier selected that one although he was a junior man who, accordingly, has been retained in service. The Bank has paid to Mehra its contribution to the provident fund. That being the position, though this is a hard case it seems to us that it is not possible to order reinstatement. His allegation that he was serving as a cashier in a pensionable post under the National Bank of India and was induced by this Bank to resign that post and join it has not been contradicted. That being so, it would, in our opinion, be proper to direct that the Bank should pay him, within a month of the publication of this Award, a special gratuity amounting to six months' pay and allowances, and we direct accordingly.

BHARAT BANK LIMITED

Roshnalal Sharma.—He joined in April 1946 and was Assistant Cashier. According to the Bank the treasurer at Batala branch wanted Roshanlal as one of the Assistant Cashiers but later on he did not want him and gave him notice. This matter, however, was not disclosed to the Manager. Therefore, as on 31st January 1949 Roshanlal did not turn up at the Bank, the Branch Manager wrote to him asking him to show cause why his services should not be dispensed with. Roshanlal did not reply to this letter and on the 14th February the Branch Manager wrote to him that he was considered to have vacated his post as from the 1st February 1949. As the Branch Manager was under a misconception in thinking that Roshanlal had absented himself without leave when he was staying away after getting notice from the treasurer, it would be proper to treat the Branch Manager's order that Roshanlal was deemed to have vacated his post as from 1-2-1949 as based on wrong facts and that order, therefore, cannot be allowed to stand. Roshanlal, however, accepted the notice of the treasurer and

remained absent from the Bank in accordance with the notice. He does not seem to have protested against the notice or made any representation to the Bank. Had he made such a representation the Branch Manager would not have remained ignorant of the reason for his absence. He wrote a letter to the Bank in which he mentioned the security bond under which he was entitled to be paid two months' salary if his services were to be dispensed with. There is, however, no such document with the Bank and this letter shows that he has not claimed reinstatement. That being so, this does not appear to be a case in which we should interfere.

B. S. Bowrie.—He was represented by the Bharat Bank Employees' Union. His services were dispensed with on the 17th March 1948. He had joined service on 11-12-1943. He wants reinstatement, his past dues according to Mr. B. B. Singh's Award and compensation amounting to Rs. 3,934. In his petition dated the 25th August 1949, he stated : "According to the Award (B. B. Singh's Award and its clarification), I was a workman up to July 1947." He was at Delhi in the Loans Department on 13-3-1948. According to him he used make remarks on letters, etc., and forward them to the Accountant and had no authority to pass orders. He used to file branch returns; weekly, daily, fortnightly and monthly. He had a power-of-attorney. He had no power of inspection and he had to sit with other clerks. He was however, sent to Ajmer as Acting Manager, the Manager there having been arrested in connection with the R.S.S. movement. There he worked as acting Manager for one month and returned to Delhi on 28-2-1948 and from 1-3-1948 he again did the kind of work he used to do before. His complaint is that he was not told why his services were terminated. He, however, admits that he had borrowed money, about Rs. 400, and that a pleader's notice had come to the Bank. His work seems to have been good because when he was transferred from Kanpur to Delhi the Branch Manager of Kanpur wrote : " His work was satisfactory/very satisfactory. He is intelligent, obedient, trustworthy, honest. He is loyal to the institution." The last remark, according to Mr. Bowrie, is based on his conduct when a strike was in contemplation at Kanpur.

According to the Bank, it terminated his services with a certain amount of reluctance, because he was found to be always getting into debts. He was sent to Kanpur as an Accountant in December 1945. His salary was raised from Rs. 130 to Rs. 150. As recognition of his good work he was promoted on the 24th March 1947 as Assistant Manager. He had already been given a power-of-attorney in June 1944. After March 1947 he got financially involved at Kanpur. There were two decrees against him and his salary was attached. He was brought to Delhi in order that he might be a help to the Head Office and was appointed as a relieving officer. The Bank had once advanced him Rs. 350. In March 1948 there were claims against him from other creditors and one lawyer's notice was received from one Bhavani Chowdhuri from whom he had borrowed a certain amount. Another notice was received from the British India Publishing Company. He was called by the General Manager and told that unless he settled his financial position the Bank would not continue him in service. He admitted that his financial condition was very bad and therefore it was decided to discharge him. In June 1948 he applied for the refund of his security deposit which was refunded and he was also given his contribution to the provident fund. Mr. Bowrie says that his total liabilities in March 1948 were about Rs. 650. He has imputed no motive against the Bank and made no representation to the Bank. His present application to the Tribunal is dated the 21st August 1949. In the circumstances of this case we feel that the Bank had

sufficient reason for terminating his services and that the case does not call for our interference.

In the following cases the Tribunal has no jurisdiction the disputes having arisen after the 13th June 1949 and, therefore, no directions regarding them are given. (The numbers shown against the employees are the numbers given in the list filed by the Bharat Bank Employees' Union.)

No. 10. M. S. Satsangi.—The Union complained that he was transferred from Delhi to Ajmer branch simply because he was a member of the Union, its General Council and its Advisory Committee. Mr. Parwana on behalf of the Union has said that on the General Council there were 45 members and five members on the Advisory Committee and that out of those 38 members of the Council and three members of the Advisory Committee have been dismissed and that the other two members of the Advisory Committee, Satsangi and R. K. Bhanot, have been transferred. This, according to him, shows that the Bank was determined to break the Union by depriving it of its main leaders and officers. He produced a handbill published by the Union, dated the 7th June 1949 showing that Satsangi was one of the members of the Advisory Committee; and the transfer occurred in the next month. According to him the Bank makes far more transfers than are justified and he has contended that this clearly shows that the transfers were not based on the needs of the Bank but on the trade union activities of the person concerned. According to the Bank, however, there was a shortage of staff at Ajmer where work had accumulated and it was said that the transfer of Satsangi to Ajmer was not intended to be permanent. The transfer was, however, made after the 13th June 1949 and as such falls outside the jurisdiction of the Tribunal.

No. 12. R. K. Bhanot.—He was also a member of the General Council of the Union at Delhi. He was transferred to Ludhiana on 4-8-1949. He took leave up to 3-11-1949. The time for his joining at Ludhiana was extended up to 29-12-1949 but still he did not comply with the order. He was then told that he was regarded as having vacated his post. He had a very bad record according to the Bank. The matters complained of, that is to say, his transfer to Ludhiana and the termination of his services both took place after the 13th June 1949 and as such are not within the jurisdiction of this Tribunal.

No. 45. Murari Lal Sharma.—According to the Union he was denied leave for which he applied on 1-7-1949 even though a medical certificate was submitted This case arose after the 13th June 1949. Therefore the Tribunal has no jurisdiction.

The following cases were not pressed by Mr. Parwana, who appeared for the employees:

No. 18—Mahinder Das Jain.
No. 19—Lal Singh.
No. 20—Ram Kalap.
No. 21—Hukam Chand Jain.
No. 22—Raghubir Singh.
No. 23—R. S. Vats.
No. 24—Ram Chander, Peon
No. 26—Prakash Bahadur.
No. 28—Raghubir Singh.
No. 29—Rama Kant.
No. 30—Vijay Singh.
No. 31—Nanua, Peon.

in front of the Bank's office that the Bank authorities decided to terminate his services. It was hardly necessary, in these circumstances, to ask him to show why the Bank should not terminate his services on those grounds because those grounds were fully known to him. On the facts of this case we are satisfied that it is not one of victimization and does not call for our interference. We therefore, give no directions.

No. 2. Jokhan Panday.—This case was withdrawn by the Union.

No. 3. Gouri Shankar Puri.—He was arrested by the Police in connection with certain fraud and forgery case and was, therefore, suspended. On his being discharged by the Magistrate in September 1949 proceedings were held by the Bank on 20 heads of charges which were served on him on 18-10-49. In his letter dated the 24th October 1949, he said, "I am in no way bound to make a detailed reply to the charges of negligence levelled against me. I request you to reinstate me forthwith." As the matter was still pending before the Bank Puri was directed to submit his explanation to the Bank by 15-2-50, whereupon Mr. Parwana said that in view of this ruling he did not require any orders in this case, particularly as the case was also pending before the Chief Labour Commissioner. He, however, pointed out that Gouri Shankar was still required to attend the office though he did no work there and said that at any rate this practice should cease. The Bank agreed to stop this practice, and no directions from us, therefore, are called for.

No. 4. Ascharaj Lal Budhiraja.—According to the Union while he was an Accountant his pay was reduced from Rs. 200 to Rs. 170 though other Accountant's pay was not similarly reduced. The Bank's case against him is as follows: He was appointed in 1940 and was officiating as Accountant in 1944. In 1945 he was deputed to the National Bank of Lahore, his lien on his post in the Bank being kept. The National Bank of Lahore confirmed him as Assistant Manager and he worked in that Bank till February 1948. On his retransfer to the Bank he was appointed to his former post. His salary was fixed as if he had not gone to the National Bank of Lahore and had earned the due increments during his absence. He was, therefore, posted in the Bank on Rs. 145 per month made up of basic salary of Rs. 95 *plus* Rs. 50 the amount of the increments.

Mr. Puri on behalf of the Union said that the period of his absence from October 1945 to February 1948 was the book period and that he would have got more increments than Rs. 50, being a man of special merit. Mr. Puri cited some instances of employees who had been junior to Ascharaj Lal but were now getting Rs. 200 or more per month. It was suggested by the Union that Ascharaj Lal should have been made an Assistant Manager by this time. He joined the Bank in 1940 and one usually gets the Assistant Manager's post after about 15 years' service; and it does not appear that any prejudice has been caused to Ascharaj Lal by the Bank. There may have been cases in which persons who were junior to him have now become his senior, but though certain instances were cited by Mr. Puri, no suggestions bearing on their case were made in the original demands or in the particulars furnished to the Bank under the Tribunal's instructions, so that it is not possible to test the correctness of the assertions made regarding such cases. No case has been sufficiently made out, in our opinion, for interference by this Tribunal.

No. 5. Gurbachan Singh.—He was a clerk in the Central Office and according to the Union an active worker of the Union. His grievance is that an allowance of Rs. 10 has been denied to him for 11 months from November 1947 to September 1948. This was known as the reconciliation allowance. He

served in Pakistan and after the partition was posted to the agency section of the head office in 1947. His post carried this allowance. His work was inter-branch adjustment in this section and the posting of certain amounts and he did this work till September 1948. According to the Bank he now gets Rs. 92 *plus* Rs. 35 dearness allowance plus *Rs.* 15-5-0 as bonus. He was given the work of reconciliation of branch accounts with an allowance of Rs. 10, but was found unsuitable. The Bank has promised to see his record and if he has not been paid for such work he will be paid the amount due, though there is no written representation from him on this point. This does not appear to us to be a case for our interference.

No. 6. Ram Chand Kakar.—He served in Pakistan and was dismissed on the 27th July 1948 after 27 years' service, though he had not reached the age of 55. The Bank's case is that he joined in 1921 as a despatcher and he worked as a clerk thereafter. When his services were no longer required they were terminated after payment to him of one month's salary in lieu of notice. There is nothing against him and the Bank has promised to see if he can be accommodated. Though he had not reached the age of 55 he had put in 27 years' service. As the Bank has promised to see if he can be helped we do not think that any directions from us are necessary.

No. 9. Avinash Chander Thakur.—He was the regional Secretary of the Union and according to the Union he brought to light a fraud committed by the Bank Manager. The Bonus due to him, *viz.*, Rs. 32-8-0 was forfeited in June 1949 and the increment due to him for 1948 was not given. According to the Bank he was responsible for two debit entries for Rs. 3,325-1-0 in respect of the Gandhi National Memorial Fund when there should have been only one debit entry to the account. The Bank came to know of the mistake in time and reversed the entries, but if the mistake had not been discovered there would have been a loss of Rs. 3,325-1-0. There is no doubt that the entry was passed by one Kapoor who was a supervisor but the Bank is right in taking the view that he, being the Accountant, was responsible for all the accounts. According to the Bank the only penalty imposed was the forfeiture of the bonus, while as to the increment for 1948 it has not been stopped and is still under consideration. We think that the mistake for which he must be held responsible was a serious one and the Bank was justified in forfeiting his bonus. No directions are, therefore, necessary.

No. 13. Bal Raj Mali.

No. 14. Ram Itwari.

No. 16. Jassi Ram.

These are menials and they have not yet been confirmed. Their cases were due for consideration but nothing was done as the matter came before the Tribunal. There is, however, nothing in the Act which prevents the Bank from confirming these men and the Bank should, therefore, proceed to consider their cases. No further directions are necessary.

No. 17. Tara Chand.

No. 18. Lajpat Rai Sehgal.

These are similar cases. The Bank stated that if there was nothing against them they would be duly confirmed. We give no directions.

No. 19. Malik Udho Das.—He was in Pakistan and was discharged on 20-4-48. According to the Bank he was a nominee of the Guarantee Broker and was a godown keeper at Jhamke Mandi (Pakistan). The pay office at

which he was working was closed after the partition. On 24th April 1948 he asked for re-instatement but the District Manager said that the pay office in Pakistan showed loss and that no District Manager was prepared to take him. His provident fund including the Bank's contribution was recommended to be paid by the District Manager, but in view of certain facts this was not done. Those facts are that on 9-8-1947 he had released goods worth Rs. 17,000 pledged with the Bank on account of Messrs. Iqbal Singh Kalyan Singh & Co., in Pakistan without receiving any payment, that the Bank had been unable to realise its dues, that a charge to this effect was given to him and explanation was asked for and that his explanation, which was found unsatisfactory, was that he had released the goods against a guarantee letter of the Government's clearing agent Narayan Singh. That alleged guarantee letter has not been produced. As he was careless enough to release goods worth Rs. 17,000 without having received payment on the strength of a letter the existence of which has not been established, we cannot find that the action of the Bank was not justified. We give no directions.

No. 20. Chander Bhan Bhatia.—He has been described as a court clerk (*i.e.*, clerk who attends to litigation work). His complaint is that while he was at the head office, New Delhi, he was discharged on the 28th April without any reasons being given. Later on he was informed by the District Manager on the 10th July 1948 that he had been discharged "as you are not fit for hard work required of a Bank employee". On 11th March 1949 he asked for refund of the security deposit which was paid by the Bank together with the amount due to him out of the provident fund. The present application is dated the 19th September 1949. It is alleged by the Union that there were two court clerks. Bhatia and Suraj Mal, and that Suraj Mal is still working. According to the Bank the work of the Court clerks has fallen considerably and as there was not enough work his services had to be dispensed with. Mr. Parwana states that Bhatia was first in the Law Department, that in May 1945 he was transferred to the office of the District Manager, Lahore Circle, and that after partition he was working under the District Manager, Pakistan Circle at Delhi. In March 1948 he asked for an Accountant's post and his name was marked for such a post. But in April he learnt that his name had been placed on the 'spare' list. On the 22nd April he wrote to the District Manager that his name had been placed on the spare list "as if his services were no longer required" and he requested that he should not be discharged.

Thus it seems that the Bank dispensed with the service of Bhatia on two grounds, *viz.*, (1) that the work which he had been doing had decreased and (2) that he was not fit for hard work. On the 22nd October he informed the Bank that he was prepared to stand a medical test and to give 8 hours continuous duty as well as to compete with the other employees of the Bank and he mentioned his output as 40 letters a day when he had been in the office of the District Manager, Pakistan Circle. Mr. Anand has admitted that Chander Bhan did not leave any accumulations of work at any time; in any case the Manager had not heard of it. It was also admitted that when he applied for an Accountant's post on 8th March 1948, Mr. Sethi, Assistant to the District Manager, had given the following opinion: "Mr. Bhatia is a competent and hard working hand and I have great pleasure in recommending his case for raising his status from the senior grade clerk to that of an Accountant". The District Manager's order was, "His case will be taken up whenever vacancy for the post of an Accountant occurs." It is true that no motive against him

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has been alleged and there is nothing to show that there was any enmity or that he indulged in Union activities. According to Mr. Bhatia his duties were to put before the Manager the debtors' and clients letters in the liquidation department which was created with a Manager on special duty in September 1948. He had also to obtain orders on such letters, to write to the debtors and carry on correspondence; and he says that he did not take part in preparing cases for the Court, nor did he attend the Courts since May 1945. Mr. Parwana also produced a copy of Bhatia's letter dated 20th December 1948 addressed to Mr. Yodh Raj, General Manager and Chairman, in which he said, "I am prepared to go anywhere in India and even beyond the boundaries in India for the remaining period". Bhatia would have attained the age of 55 in 1950. He was considered competent and hard working and the allegation of the Bank made before his discharge that he was not hard working seems to be inconsistent. He was specially noted for promotion for the post of an Accountant and shortly thereafter his services were dispensed with. It is difficult to see why this was done; it seems that he has been unfairly dealt with, for *prima facie* he should have been allowed to serve till he attained the age of 55. On retirement he might have been entitled to a gratuity; and before he retired he might have even taken certain amount of privilege leave, having 46 days privilege leave due to him. It is possible that seeing that he was marked for the next vacancy of an Accountant it was in the interest of some one in the office to get him out of the way, and this might be the explanation why for apparently insufficient reasons his services were dispensed with. We think that he would be sufficiently compensated for the treatment meted out to him if he be paid six months salary and allowances within a month of the publication of this Award. We direct accordingly.

No. 22. Ram Parkash Bhalla.—According to the Union he worked at the Kashmiri Gate branch, Delhi as officiating supervisor since March 1948. His confirmation was due in March 1949 but his officiating allowance of Rs. 10 per month was withdrawn with effect from 1st April 1949. According to the Bank the Branch Manager recommended his appointment as Supervisor but this could not be given effect to as there was no vacancy, though he had officiated as supervisor on many occasions. There is nothing against him. Mr. Puri on behalf of the Union however, said that for some months he had not been paid for supervisor's work done by him, *viz.*, from 1st April 1949, till September 1949. These particulars were, however, not furnished to the Bank and the Bank is unable to verify the statement. We direct that Mr. Puri's allegation should be looked into by the Bank and that if Bhalla has done a supervisor's work without being adequately paid therefor, the balance due in respect of such work shall be paid within a month of the publication of this Award.

No. 23. Purshotam Lal Syal.—According to the Union he was an officiating Accountant at the Head Office, where he had come from Pakistan, from 16th April, 1948 and he has not yet been confirmed though there is a permanent vacancy. This according to the Union, is on account of his trade union activities. The Bank says that there is no permanent vacancy. The Officer-in-Charge (West) has ordered that Syal should continue where he is at present till a vacancy occurs. Mr. Puri says that the period of confirmation is six months and that Syal is not confirmed because he is the Vice-President of the Union. Mr. Anand on behalf of the Bank, states that he is officiating in a non-permanent department, *viz.*, the Pakistan Department, that on 29th October, 1949, the District Manager reported that he had become 'spare', giving facts and figures,

but that Secretary West ordered that he should continue where he was. The rule as to confirmation in six months came into force in November 1949; before that the period was one year. We direct that as soon as there is a permanent vacancy Syal shall be confirmed subject to any existing rules regarding confirmation.

No. 24. Gurdas Mal.—He was a peon at the Head Office at Delhi and it is alleged that the annual increment which was due to him on 25th May 1949 was not granted to him on the ground that he had attained the maximum. At that time the maximum pay for a peon was Rs. 39; now it is Rs. 40, in the scale Rs. 25—½—40. Mr. Puri said that another peon named Dubri was getting Rs. 41 *plus* a Jamadar's allowance. This particular, however, was not furnished to the Bank when the employees were required to furnish the necessary particulars to the Bank to enable it to reply. That being so it cannot be said that the man has any real grievance, and no directions are necessary.

No. 44. Madan Lal Sabharwal.—The complaint is that his basic pay since his transfer from Karachi has been reduced. But according to the Bank he was getting at Karachi basic pay of Rs. 55 *plus* Rs. 15, besides Rs. 28 (40 per cent of Rs. 70) as an emergency allowance given to persons serving in Pakistan after the partition. He was given a further increment of Rs. 15 *plus* 40 per cent thereon in consideration of the fact that he was discharging, when at Karachi, double duty in the office and assisting the Manager in the work of evacuation of the staff of the Bank in Pakistan. Thus in Karachi he got Rs. 119 per month when he came to the head office in Delhi he was paid his substantive salary Rs. 70 (Rs. 55 *plus* Rs. 15) and from 1st May 1948 he was granted an increment of Rs. 3 according to the rules of the Bank. He also got a local allowance at Delhi of Rs. 10 along with the other employees. Thus he got altogether Rs. 83. He was promoted to the Senior Grade with effect from 1st May 1949 getting an increment of Rs. 5, and thereafter an *ad hoc* increase in his emoluments of Rs. 7, which was given to all clerks at Delhi, was also granted. Therefore his emoluments, apart from dearness allowance, came up to Rs. 95. He has individually made no representation to the Bank. All that Mr. Parwana could say was that he had done his work under considerable pressure and had to attend to a large number of matters like the granting of loans, staff matters and confidential reports and that he had saved a large number of persons at the risk of his life in Karachi and that, therefore, a promotion of Rs. 100 was recommended in his case, while the head office granted Rs. 15 only. We do not think that he should have any real grievance and we do not wish to interfere.

We now proceed to deal with certain issues which were heard at Dehra Dun because they related to questions peculiar to the Banks and their branches in the East Punjab and Delhi.

Issue No. 29 in the Government Order.—The Union concerned states that the three peons mentioned in the notification have now resigned, so there is nothing left for the Tribunal to do.

Issue No. 15 (b).—Mr. Anand for the Punjab National Bank stated that on the 1st January 1945 the Bank took out a Fidality Guarantee policy, in two parts, from the National Security Assurance Company, in respect of officers and non-officers, the Bank paying the premium. The policy was renewed in 1946 and 1947. During these three years a number of cases of defalcation and misfeasance occurred involving a loss of about 10 lakhs of rupees. The whole amount was recovered from the Assurance Company. Thereafter the Company refused to renew the policies. Therefore on the 27th January 1948

a scheme was devised by the Bank under which (1) the security amounts required from the employees who had to provide guarantees were raised (for peons to Rs. 1,000, daftaries Rs. 2,500 and clerks Rs. 5,000), and (2) where the security for such large amounts could not be found such employees were to contribute to a Guarantee Fund, the contributions being annas 4 per month for peons, annas 8 per month for daftaries and Re. 1 per month for clerks. The Bank contributed like amounts. Trustees were appointed, one of whom was a senior member of the staff. No contributions were refundable. In case there was a loss due to dishonesty, etc., it was to be recovered from the cash security of the person in question and his property and thereafter from the Bank's contribution to the Provident fund of the person in question and lastly from the Guarantee Fund. In the Reserve Bank, however, where there is a Guarantee Fund, the workmen get back their contributions, but the Bank does not contribute anything to the fund. The employees wanted such a provision to be inserted and accordingly the Bank amended the scheme. The amendment provides that on termination of services or transfer to an appointment where guarantee is not required, if there be any amount to the credit of a person, a bonus would be paid and that such bonus would be in the same proportion to the amount standing to the credit of an employee as that which the fund of the group to which the person belongs bears to the aggregate amount standing to the credit of the members of the group in their individual accounts. The Bank continues to pay its own contribution to the fund. There is a further provision that an amount equal to the bonus paid is to be paid to the Punjab National Bank Employees' Association for benevolent purposes in aid of employees, their widows and orphans, etc. This part of the scheme is objected to by the employees. It is said that as a consequence of the introduction of the Guarantee Fund the losses of the Bank have become considerably less. In 1949 they amounted to only Rs. 13,000 and in 1948 to a still lesser amount. On the introduction of the amended rules the security amounts required have now been reduced. For clerks, for instances, they have been reduced to one month's substantive salary.

Mr. Dharam Vir Taneja for the Punjab National Bank Workmen's Union said that the scheme would penalise the majority for the faults of few and was objectionable in other ways also. Mr. H. L. Puri of the Employees' Union wanted the matter to be argued again at Bombay; but none of the representatives of the employees, could suggest a better scheme than the one introduced by the Bank.

A good deal of arguments have been advanced before us at Bombay on the question of the pension and guarantee fund, on behalf of the Imperial Bank of India. Mr. Singh of the Punjab National Bank has joined in the discussion on behalf of his Bank. Three main objections have been raised on behalf of the employees. The first related to the absence of a provision as in the Reserve Bank that the workmen were to get back their contributions. That objection has been met in this Bank by the amendment which I have referred to above. The second objection is as regards payment of an amount equal to the bonus to the Punjab National Bank Employees' Association for benevolent purposes, as it is not clear whether the said Association is representative of a majority, or even a large number of the employees of the Bank. The objection appears to us to be valid. At Dehra Dun the Bank did not take up the question, as in the case of the guarantee fund of the Imperial Bank of India at Bombay, that the fund being a trust property was beyond the jurisdiction of the Tribunal. It would seem, however, that the trustees of the fund in this case do not constitute an independent body, though there is a provision that the fund

should vest in trustees, but that they are subject to the superintendence and control of the directors, at least to a large extent. That is probably why Mr. Anand for the Bank did not raise the question of jurisdiction. In any case we recommend that the provision regarding the payment of an amount equal to the bonus to the Punjab National Bank Employees' Association should be deleted and that the said amount should be put into a separate fund for benevolent purposes in aid of employees, their widows, orphans and dependants to be administered by a Committee consisting of an equal number of persons nominated by the Bank authorities and persons nominated by the employees; and the latter nomination should be made at a meeting held once in three years by persons elected for the purpose at meetings previously held by the employees at the head office as well as by those at the branches, irrespective of the Association of Unions to which they may belong.

Issue No. 16.—This issue concerns the recognition of (i) The Punjab National Bank Employees' Union (East Punjab), (ii) The Bharat Bank Employees' Union, Delhi, and (iii) The United Provinces Bank Employees' Union.

(i) *The Punjab National Bank Employees' Union (East Punjab).*—It was pointed out that the term 'recognition' was used probable for the first time in the Trade Unions (Amedment) Act, 1947, and that the Act had not yet been brought into force. The Union wanted recognition in the sense used in the Act with the consequences stated in the Act, and in any case, it contended that its claim for recognition constituted an industrial dispute. It was, however, found that the Union had not complied with the provisions of section 28 D, clause (d), of the said Act under which, if the Act applied, its rules should provide for the procedure for declaring a strike. It seems to us that it would not be proper, in such circumstances to direct although the Trade Unions (Amendment) Act, 1947 has not yet been brought into force the Bank should recognise the Union in the sense used and with the consequences stated in that Act.

(ii) *Bharat Bank Employees' Union.*—This Union was recognised by the Bank on the 11th November 1948 but the recognition was withdrawn on the 7th December 1948 during the strike declared by the Union. The Union has 455 members out of a total body of 3,000 workers of the Bank. Mr. Parwana tried to show that the Union was confined to the Delhi employees, but the constitution of the Union says that it is open to all employees of the Bank. That being so, even if the Trade Unions (Amendment) Act, 1947, applied to condition (b) stated in section 28 (D), *viz.*, that the Union should be representative of all the workmen employed by the employer, has not been fulfilled. Condition (d) in the said section also has not been satisfied. All that the President of the Union could show was that on the 11th January 1949 the General Council had passed a resolution that a strike should be resorted to as a last measure and that it might be declared jointly by the President and the Secretary. This cannot be said to constitute the provision of sufficient procedure for declaring a strike in the rules of the Union. For such a rule should at least provide for the giving of a notice to the Bank, the period of such notice and consideration of any action taken or proposed to be taken by the Bank. Even if, therefore, the Trade Unions (Amendment) Act applied recognition of the Union could not have been directed. We, accordingly, reject the demand of the Union.

(iii) *United Provinces Bank Employees' Union.*—There was no representative of the Union present and at Lucknow the Union's representatives expressed their desire that their case or recognition should be taken up at Bombay. No orders, therefore, need be made in this behalf in this Award.

The Allahabad Bank Employees' Union.—This union also claimed recognition though that Union is not mentioned in Schedule II to the Government Notification of the 13th June. Its membership is 106 out of a total staff of 160, so that it is no doubt representative in character. The Union representative read out a passage from an Award by Mr. S. P. Varma on an industrial dispute between Messrs. Talcher Coal Fields Ltd., and their workmen, wherein he has referred to the remarks of the adjudicator in a dispute between Messrs. Robert McLean & Company, Ltd., and their employees, published by an order of the Government of West Bengal, dated the 22nd January 1948 in the Calcutta Gazette. The learned adjudicator had observed that "nothing but advantage can accrue to the Company by recognising the Union" and he had directed that the Company should recognise the Union. Following this decision Mr. Varma stated in the dispute before him that the Company had not been able to substantiate its charge that the Union was indulging in illegal strikes and the Company could not disprove the fact that the Union counted among its members the majority of the workers, and he, accordingly, directed that the Union should be recognised. Mr. Dayaldas for the Union admitted that the Union had made no rule as required by section 28D, clause (d), of the Trade Unions (Amendment) Act, 1947. In this case also, therefore, the Bank cannot be directed to recognise the Union.

The Allahabad Bank Employees' Union, Delhi Branch, claimed overtime allowance for the extra work the workmen had put in at the half-yearly closing of the Bank on the 31st March 1949. They were entitled to such allowance for working after 7-30 P.M. on that day. Mr. Dayaldas on behalf of the Union said that the management had kept a sum of Rs. 250 for overtime allowances, but that the allowances calculated on the number of extra hours actually put in amounted to about Rs. 350, that the management tried to persuade the workmen to reduce their claims but that on this suggestion being refused Murarilal, Assistant Accountant, who had been deputed to supervise the overtime work, made remarks on the attendance register reducing the number of hours of work showing against the names of the workmen concerned. It was said that instead of sitting in the Bank for the whole of the night when the work was going on Murarilal left at 6 or 6-30 P.M. According to Mr. Dayaldas an allowances of Rs. 261-6-10 was offered to the workmen but all of them, except six men, refused the offer.

As to the facts Mr. Amarnath Khanna, Accountant of the Bank, who ordinarily would have supervised the overtime work, was examined. He said that owing to his illness his assistant Murarilal was deputed for the supervision work. At first he denied the allegations made by Mr. Dayaldas but later on stated that the evidence given by him earlier was incorrect, and that the workmen's claim based on the original timings as shown in the register was correct. We, therefore, direct that the workmen's claim to allowance for extra work on 31st March 1949 should be paid according to the hours originally shown in the register kept for the purpose.

The workmen of the Bharat Bank who struck work during the period from 3rd December 1948 to 9th December 1948 and from 9th March 1949 to 20th March 1949 have claimed that they should be paid their full wages and allowances for the said strike periods. According to Mr. Parwana on the 4th October demands were made to the Bank authorities but nothing was done and on the 22nd October a reminder was sent but there was no reply. On the 3rd November there was another reminder in which it was said that unless a reply was received by the 10th November there would be a strike ballot and that the Union

would carry out the mandate received with effect from the 3rd December 1948. To this also there was no reply. A number of people were, however, transferred, for instance, the President was first sent to Nagpur and then to Sadarbazar, Delhi, and then to the office of the District Manager, Punjab Circle. Badri Nath a member of the Working Committee was transferred to the Batala branch and A. C. Chauhan, a founder member of the Union, was transferred to Nagpur and from there to the Punjab Circle. All this, according to Mr. Parwana, was an attempt to harass and weaken the Union. On account of this harassment notice of an earlier strike was given and that strike commenced on the 11th November 1948. On that day, after one hour's strike, the Union was recognised by the Bank and an assurance was given in writing that there would be no victimization. On the 27th November 1948 the Negotiating Committee met the authorities, but with no result. Therefore a strike was commenced on the 3rd December 1948. The matter having been referred to the Chief Labour Commissioner the dispute was referred for adjudication on the 9th December and under section 10(3) the continuance of the strike was prohibited whereupon it was called off. That is the version of the Union of the events leading up to the strike which commenced on the 3rd December. Mr. Anand for the Bank has contended that there was no reason for the strike at all as on the 8th November 1948 the Bank issued a circular to the effect that the question of emoluments would be considered and if given would be given with effect from 1-10-1948, so that after this day the Union as such should have had no grievance, their main demand being for greater emoluments. But still, he said as Mr. Parwana had been transferred the strike was actually commenced on the 3rd December. This is apparent, according to Mr. Anand, for on the 10th November 1948 the Union gave a notice which referred to Mr. Parwana's "victimization" and stated that its demands must be satisfied by the same evening, which was an impossible demand. On the 29th November the Bank wrote a letter to the Union saying that at the meeting between the Union and the Bank authorities a new demand had been presented that no one who was on the Working Committee should be transferred, all its members being indispensable to the Union, that the Bank had suggested a reference on this question to the Labour Commissioner, and that to this suggestion the Union had not agreed. The circular of the 8th November was given effect to on the 29th November 1948 and on the latter date the Labour Commissioner was informed of this. On the 2nd December the Bank also wrote to the Director of Industries and Labour as to what had taken place. On the 7th December 1948 the Bank's recognition of the Union was withdrawn and on the same day the Bank intimated to the staff that the management was prepared to pay them salary for the strike period if those who had gone on strike rejoined their duties by the 8th December 1948. Therefore, according to Mr. Anand the Union was not justified in going on strike. After the letter of the Bank dated the 29th November the Union in their letter dated the 2nd December 1948 wrote, "The Union considers your charges as false, vexatious and malicious" and "we shall reply in detail later on". No such reply however was given.

The main contention of the Bank was that as on the 29th November the emoluments were revised with effect from 1-10-1949 the Union had no legitimate ground for going on strike. The Bank also appears to be correct in the statement that at the meeting which took place between the Bank authorities and the Union on the 27th November the Union put forward a new demand which had not been made before. It seems to us that merely because the President had been transferred elsewhere and this new demand was not granted the Union was not justified in going on strike on the 3rd December. We, therefore, do not

think that for the period of the strike the workmen should be allowed their emoluments.

As to the strike from the 9th March to the 20th March 1949 we have already stated in our award regarding the victimization cases relating to this Bank that neither the Union nor the Bank was free from blame in respect of the facts leading up to the strike. We have, however, given a direction as to the reinstatement of such of the persons as were discharged and allowed them relief as to pay and allowances for a certain period. We are unable to hold that any further relief should be granted for the period of the second strike.

K. C. SEN,
Chairman,

J. N. MAJUMDAR,
Member.

BOMBAY,
Dated the 22nd February 1950.

(*Vide* Gazette of India Extraordinary, dated March 23, 1950, pp. 1071—1094.)

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(9)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 4th April 1950.

No. LR-90 (*8*)/I—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. D. J. Ladha of the Laxmi Bank Ltd., Akola (Madhya Pradesh).

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

The Laxmi Bank, Limited Akola

AND

D. J. Ladha.

In the matter of alleged victimisation.

Appearances.—Mr. B. S. Agarwal, Assistant Secretary, Laxmi Bank, Ltd., for the Bank,
Mr. D. J. Ladha in person.

AWARD 270

The following case of alleged victimization was heard at Nagpur on the 11th March 1950 :—

The complaint of Mr. D. J. Ladha, a clerk dismissed from the Head Office of the Laxmi Bank at Akola on 8-1-1949 was as under : He had been confirmed as a clerk in 1945. In January and February 1947 he tendered his resignation thrice, but the resignation was not accepted. In January 1947 the Central Bank, Akola branch, had offered him a cashier's job. In one of his applications he stated that being unwilling to work in the record *Khata* which had been assigned to him he wished to resign. Some time later he wanted an advance from the bank but when it was refused he left the office on 13-6-1947, as he was roughly and discourteously treated and told to leave the office. He never came back to office. Five days later he wrote to the bank that he could not return to duty unless he was asked to rejoin. On 8-1-1948 he received orders that his services had been terminated with effect from 5-7-1947.

The Bank's case is as follows : He was an unwilling worker, quarrelsome and often insubordinate. On 13-6-1947, when his request for an advance was turned down, he created an unpleasant scene and had therefore to be told to leave the office. This did not mean he was told never to come back to office again. He remained absent till 27-6-1947 and thereafter attended office till 4-7-1947. From 5-7-1947 he never cared to attend, apparently because he tried to get jobs elsewhere. In 1948 he got a job in the Rajasthan Printing Works where he worked for 3 months. He is now working in the firm of Messrs. Suganchand and Co. The bank authorities waited for his return till 8-1-1948 (more than six months) and then passed orders regarding termination of his services as he could not be shown indefinitely as an absentee clerk.

Ladha denied that he ever attended office after 13-6-1947. But the Bank's muster roll clearly shows his signatures against June 28 and 30 and July 2 to 4 (June 29 and July 1 being holidays). In his letter of 18-6-1947 to the bank he said that unless he got any reply he would be "constrained to take legal refuge", but he never did so. He admits that there was an exchange of "hot words" between himself and the Secretary of the bank on 13-6-1947 when the bank authorities refused him an advance on the ground that it was a matter within their discretion. According to Mr. Agarwal, Assistant Secretary of the Bank, who appeared before the Tribunal, the Secretary told him (Ladha) to go to his chair, he went there shouting all the time, and when Mr. Agarwal told him to stop shouting he said, "I shall see how the Secretary refuses me an advance", whereupon he was told, "Either get out of the office, or a peon will be told to take you out of the office", after which he went out shouting.

Ladha admitted that he saw the General Manager after 18-6-1947 and that the General Manager had no grudge against him, but says that he did not get the bank's letter of 8-1-1948 informing him that his services had been terminated. The bank's despatch register, however, includes this letter among the letters despatched on that day. Ladha further says that he went to see the General Manager (who signed the order regarding the termination of his services) to discuss matters unconnected with his present grievance. He said finally that the bank had been indulging in malpractices, that he discovered this and brought it to the General Manager's notice and that he was, therefore, got rid of. At the same time he admits that none in the bank took him to task or threatened him on this account and says that he has not spoken of this matter to anybody but the General Manager up till now.

It is clear that this is not a case in which we should interfere. Ladha clearly went back to his work after 27-6-1947 and attended office thereafter upto 4-7-1947. Why he absented himself for over six months thereafter is not clear; he was probably looking for a job. In any case even though he was told to leave the office on 13-6-1947 it cannot be said that he was ordered not to return to it or prevented from returning, as the fact that he did attend on 28-6-1947 and subsequent days sufficiently shows. It is clear that all his statements cannot be regarded as reliable, and the *bona fides* of the bank are sufficiently shown by the fact that no order against him was passed for over six months after 5-7-1947 from which date he absented himself. We do not think that this is a case in which we should interfere. We, therefore, make no directions in this case.

(Sd.) K. C. SEN,
Chairman.

(Sd.) J. N. MAJUMDAR,
Member.

(Sd.) N. CHANDRASEKHARA AIYAR,
Member.

BOMBAY:
Dated the 24th March 1950.

S.C. AGGARWAL,
Deputy Secretary to the Government of India.

(*Vide* Gazette of India, Part I, Section 1, dated April 15, 1950, pp. 64-65)

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(10)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 12th April 1950.

No. LR-90 (9)/I.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. T. P. Malaviya of the Bharat Bank Ltd.

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BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Bharat Bank, Limited

AND

T. P. Malaviya

In the matter of alleged victimisation.

Appearances:

Mr. R. N. Seth for the Bank

Messrs. J. N. Mehrotra, K. C. Gupta, A. C. Kakar, Harmangal Prasad, S. D. Misra, Padamchand, K. N. Mehrotra, Bukumchand and R. M. Tandon of the U. P. Bank Employees, Union for Mr. T. P. Malaviya.

AWARD

The above case was heard at Lucknow on the 23rd December, 1949.

Malaviya was working as a Sub-Manager of the Lucknow Chowk branch of the Bank. This branch ceased to exist on the 14th August 1948 and his services were transferred to the Hazaratgunj branch at Lucknow. On the 6th October 1948, he was transferred to the Kanpur branch as an Assistant Manager. Although this order was in contravention of the U.P. Government order No. 5890 (ST) XVIII-142 (ST) 48, dated the 23rd September 1948 he did not take any exception to it as he was an old employee and he joined the Kanpur branch on the 5th November 1948. From there he was sent to Fatehpur where he worked as Controller of Shree Maheshwari Rice and Oil Mills. He protested unsuccessfully to the Bank against this transfer. He then made a representation to the Labour Commissioner, but as he got no reply till the 10th November 1948 he proceeded to Fatehpur. While working at the Mills he fell ill and went on leave on the 24th January 1949. While on leave he made several representations to the Bank authorities pointing out difficulties in working in the Mills and he wanted a transfer to Bank work, but without any result. As another man was posted in his place at the Mills, he enquired about the place where he should join on the expiry of his leave but he got no reply. He then again made a representation to the Labour Commissioner who expressed his inability to interfere as he had accepted the post of Controller of the Mills. As soon as the Mills were closed, while he was still on leave, he got a letter from the Bank dated the 12th May 1949 intimating him that in view of his unsatisfactory work it had been decided to terminate his services. On receipt of this letter he wanted to know in what respect his work was found unsatisfactory and under what rule such drastic action had been taken, but he received no reply. It is contended on his behalf that though his designation was that of a Controller he was only to look after the storage and delivery of the stock which duty could be performed by the godown keeper. His complaint is that he was given no particulars of

the grounds of his dismissal nor was he afforded any opportunity to offer any explanation, and that his services have been dispensed with, leaving a blot on his record, at a time when, due to his age, it is difficult for him to secure another job. He has asked for various reliefs.

The Bank has filed a statement and contended that he was an Officer and, therefore, the Tribunal has no jurisdiction, that while he was Sub-Manager at the Lucknow Chowk branch his work was found unsatisfactory, in that on one occasion owing to his negligence an outward bill for collection for Rs. 278-4-6 was paid twice over to the customer, that when the Chowk branch was closed he was temporarily attached to the Hazratgunj branch to settle the outsanding matters of the Chowk branch and that when those were settled, though he became a surplus hand, in order to keep him in appointment he was transferred to Kanpur as Assistant Manager. It is further stated that as he took leave he was deputed to act as Controller of the Mills because an experienced man was necessary there; and that after working there for a few weeks he took leave from time to time and went on requesting the Bank for his transfer to Kanpur or Lucknow. It thus appeared to the Bank that either he was unwilling to discharge the duties entrusted to him or his health was too poor; and his services were, therefore, dispensed with after giving him one month's salary in lieu of notice.

If we consider the reasons mentioned in the Banks' statement (which were not stated in the letter of dismissal) as reasons for the dismissal we are constrained to come to the conclusion that they are not the true reasons, or even if they were, dismissal on those grounds cannot be justified. The unsatisfactory work alleged in the statement of the Bank was the payment by him of Rs. 278-4-6 twice over to a customer when he was the Sub-Manager of the Lucknow Chowk branch. The fact that he was continued in employment at Hazaratgunj and Fatehpur, although he is now stated to have become a surplus hand, sufficiently negatives the Bank's case, in our opinion, about his alleged unsatisfactory work. The Bank admits that he was retained on account of his experience. His repeated request for transfer to Bank work, which in our opinion was a legitimate request, did not find favour with the management, his approach to the Labour Commissioner in respect of this matter was not liked by it and there might be other reasons of which we are not aware; these appear to have led to his dismissal on the pretext of the unsatisfactory nature of his work. It would be pertinent to point out that the Bank did not supply him with any particulars when he enquired about the alleged unsatisfactory nature of his work.

Our attention has been drawn to a typed letter dated the 10th November 1948 addressed by the Manager appointing him the Controller of the Mills wherein it has been stated that his designation in bank services remains unchanged. He has stated that when he was transferred to Kanpur as Assistant Manager he did not hold an independent charge of the office with powers to appoint and dismiss any employee of the Bank, that he had the power merely to supervise the office routine and as such he was a workman as defined in the Industrial Disputes Act, and that similarly as Controller of the Mills he was not given complete charge of the Mills but had simply to supervise storage and delivery of the stocks and as such he was a workman. The Bank, on the other hand, has stated that when he was transferred to Kanpur and posted as Controller of the Mills his designation and remuneration remained those of an officer. But the Bank has not disputed his statement about the nature of the work that he had to do either in his capacity as Assistant Manager of

Kanpur or as Controller of the Mills. At the bottom of the letter of the 10th November 1948 already adverted to, there is something in writing in the nature of an acknowledgment over the signature of Malaviya. It has been alleged on his behalf that this writing is a forgery and that it was not in existence when Malaviya put his signature to this letter. We do not think that this writing has any direct bearing on the question we are considering and the view we have taken about jurisdiction. It does not, therefore, appear to us necessary that we should express any opinion as to this writing. No evidence has been adduced on behalf of either of the parties to prove the nature of Malaviya's duties. We have, therefore, to proceed on the statement on record, and we do not find that the allegation of Malaviya as to the nature of his duties has been disputed by the Bank. We are inclined to hold that he was a workman. Accordingly we direct his reinstatement within a fortnight from the date of the publication of this Award and further direct that he shall be paid, within the same period the salary and other allowances he would have earned during a period six months.

K. C. SEN, *Chairman.*

J. N. MAJUMDAR, *Member.*

N. CHANDRASEKHARA AIYAR, *Member.*

BOMBAY :
Dated the 30th March 1950.

S. C. AGGARWAL,
Deputy Secretary.

(Vide *Gazette of India*, Part I, Section I, dated April 22, 1950, pp. 87-88).

NOTE.—Original copies of the awards, which have been submitted to the Government of India but not yet published have been put (only in the first copy) in Appendix IX to the award. One copy each of Tribunal's order's in respect of section 33 matters has been put in Appendix IX to the award (only in the first copy).

[No. LR. 90(43).]

K. N. SUBRAMANIAN, Joint Secy.

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No. 32—Puran, Peon.
No. 33—R. B. Saxena.
No. 34—Madan Lal Sharma.
No. 35—S. R. Gupta.
No. 36—Labhu Ram.
No. 37—K. L. Gupta.

These are all cases of transfers and on its being pointed out to Mr. Parwana that the Tribunal would not ordinarily interfere with such transfers if it did not involve any hardships, he did not press these cases.

No. 39—L. K. Neyogi.
No. 40—Hem Chand Jain.
No. 43—R. K. Bahl.
No. 44—R. N. Malhotra.
No. 46—Harparshad.
No. 47—Peons at Darya Ganj Branch.

These are alleged cases of harassment but they were not pressed by Mr. Parwana.

We now proceed to deal with cases which were argued before us.

No. 1. Bachi Ram.—He has now been reinstated and so no orders are necessary in his case.

No. 2.—Tarachand.—He was a peon and was dismissed on the 5th April 1949 from the Subzimandi branch. The letter of discharge dated the 5th April 1949 says, "You are discharged for insubordination and disobedience. Your security deposit stands forfeited to the Bank." The Bank's case is that he was found guilty of stealing a pair of *dhoties* belonging to a clerk and that he was absent without permission. These two matters were reported to the Head Office and in the meanwhile he was told to pull *pankha* but on his refusal he was dismissed. The order now suggested on behalf of the employee is that if he applies to the Bank for the refund of the security deposit the same should be paid to him. As he has already been sufficiently punished by dismissal it does not seem necessary that he should be further punished by the forfeiture of his security deposit. We, accordingly direct that it should be paid back to him on his application to the Bank.

No. 3. Narain Parshad.—He was dismissed but having made an apology he has been reinstated. No directions are, therefore, called for.

No. 4. Tilak Raj Arora.—He was absent without leave in 1948. He joined on the 29th March 1947. In 1948 he took 148 days' leave and in 1949 up till May he took 34 days' leave. Since the 31st May 1949 he has remained absent, all leave due to him having been exhausted by June 1949. Since July 1949 he was on leave without pay which was sanctioned up to 8th November 1949. After that he has neither resumed duty nor applied for leave. On the 25th November 1949 he was informed that he was considered to have voluntarily vacated his appointment as from the 9th November 1949. We do not think that this is a case in which we should interfere.

No. 5. Bhagwandas Sharma.—He was transferred to the Ajmer branch on the 15th May 1949 and on the 16th May he asked for the cancellation of the transfer, but this was not done. Thereupon he applied for leave from the 16th May to the 30th May on the plea of his wife's illness and the leave was granted. On the 29th May, he was informed that he should join at Ajmer. Till the 4th

June he did not join there. On that day he was informed that he was considered to have vacated his appointment. On the 22nd June he applied for his salary for 14 days in May which was due to him.

Mr. Parwana says that there should have been a charge sheet as there was one even in the case of the thieving peon Tarachand. He further alleges that Bhagwandas Sharma wrote to the Bank asking for further leave and that the Joint Secretary of the Union saw the leave application being posted. He thinks that this letter has been suppressed by the Bank. On the 22nd June he entrusted his case to the Union which presented its demand on the 4th October 1948. According to Mr. Parwana, Bhagwandas was warned not to participate in the Union's activities. He was transferred to Saharanpur, then to New Delhi and then to the Head Office and again to Ajmer when, his wife was seriously ill.

This is a case in which the employee has been taking leave again and again and when he was transferred to Ajmer he evidently had no inclination to go there. There is nothing to substantiate the statement made by Mr. Parwana that Bhagwandas applied to the Bank for leave after the 30th May, and he must have known that he had asked for a good deal of leave from time to time and that the Bank would not ordinarily be inclined to grant him further leave. In the circumstances of this case it seems to us that this is not a case in which we should interfere.

No. 6. Rajeshwari Prasad Sharma.—The Bank's case against him is that he joined on 1st August 1945, that he was transferred to Bulandshahr branch on the 1st April 1946, that his services there were far from satisfactory and that as he continued acts of gross disobedience and impertinence he was suspended from the 24th March 1947 by the Branch Manager. The Head office, however, took a lenient view and transferred him to Subzimandi branch. There also his work was found unsatisfactory and he was irregular in attendance. It was, therefore, decided to terminate his services and a notice was sent to him on the 15th September 1948 and he was relieved on the 16th October. On the 11th January 1949 he asked for the refund of his security amount which was granted.

Mr. Parwana says that there was no charge in this case and he was never warned at Subzimandi branch. The notice of the 15th September merely refers to "unsatisfactory work." On the 8th November 1948 Sharma wrote to the Manager of the Subzimandi branch stating that he had never been given any warning before. It has not been alleged that this employee has been victimized owing to his trade union activities and it has not been shown that the allegations made by the Bank about his acts of gross disobedience and impertinence are false or incorrect. When he was suspended he could not have been ignorant of grounds on which he was suspended, nor is it likely that when he committed acts of disobedience and impertinence nobody in the office ever told him about such acts. Mr. Parwana has not said that no such acts were committed by Sharma. We do not think that we can interfere in this case.

No. 7. Samat Lal Jain.—He was a senior clerk at the Hathras branch. The post was abolished and he was transferred to the head office in March 1948. On the 6th April 1948 he was posted to the Subzimandi branch. According to the Bank he was very irregular in attendance; from the 12th April to the 20th April 1948 he was no privilege leave; from the 29th April to 2nd May he was again on privilege leave and he was on sick leave from the 3rd

May to the 2nd June and again from the 3rd June to the 5th June. Thus he was continuously on leave between the 12th April and the 5th June. Again he took sick and casual leave in July and August and from the 13th October 1948 he was absent without leave or intimation to his office, which was against the Bank's instructions, particularly as he was the holder of a power-of-attorney. On the 22nd October he was dismissed as from the 13th October. On the 5th January 1949 he applied for dearness allowance and this was paid to him.

According to the Union he sent his leave application with a medical certificate on the 15th October, having already been given leave for the 13th and 14th October. 15th October was a holiday. In his application on the 16th October he stated, "In continuation of my two days' leave", etc., The application was received by the Bank and was sent to the Head Office which received it on the 21st October. On the 16th October the Branch Manager wrote to the Head Office suggesting his dismissal and the Head Office thereon also wrote on the 21st October that he should be dismissed. As to the leave application of the 16th October the Head Office wrote to the Branch Office, "As he was away from the 13th to 17th without leave, we cannot alter our decision." Mr. Parwana has contended that in this case also there ought to have been a regular charge sheet, but there was none, nor was any opportunity given to Samat Lal for explaining his conduct. It seems that on the 16th October, before the leave application was received by the Branch Manager, the latter had written to the Head Office suggesting that he should be dismissed, apparently owing to his being absent without leave or intimation to the office from the 13th October 1948 and in view of the number of occasions when he had taken leave during the year. Samat Lal could not have been himself unaware of the fact that he had taken leave so frequently; and as it is not the Bank's case that he used to take leave on false pretexts but that it is very inconvenient to have an employee who takes so much leave and with such frequency, there was in reality very little for him to explain. Even before the Tribunal no attempt was made to show how the Bank would be expected to keep in service a man who required leave so frequently and for such a long aggregate period. The Bank did not receive the alleged application for leave for the 13th and 14th October, and simply because Samat Lal stated in his application of the 16th October "in continuation of my two days' leave" it cannot be held that such leave had necessarily been granted. The Bank had been consistently granting him leave, whenever he had been asking for it in the past and it seems unlikely that the Bank has suppressed the fact that leave for 13th and 14th was duly given. In the circumstances it seems to us that the Bank had sufficient grounds for dispensing with the services of this employee and do not wish to interfere.

No. 8. Ratan Lal.—He was a clerk and was dismissed on the 27th November 1948. According to the Bank he returned a cheque for Rs. 25,000, on which the date had been over-written to the person who had brought it to the Bank and did not enter the cheque in the "Cheques Returned Register" nor did he return the cheque with a memorandum of objections. According to the Bank if he had done this the matter would have come to the notice of the higher authorities and the later fraud which was perpetrated would have been avoided. That fraud took place one or two hours after the first cheque had been returned, when another cheque for the same amount was presented and cashed. It was a forged cheque but nobody could detect that it was forged. No other person has been dealt with in connection with this fraud. Ratan Lal, however, himself told the authorities that he himself had returned the earlier cheque. He was arrested but he has been discharged or acquitted

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According to Mr. Parwana he has been got rid of because of his trade union activities. He did nothing wrong in connection with the actual act of forgery by means of the second cheque and as regards the first cheque, it is contended that he acted according to the prevailing practice, though there might be instructions regarding the entering of such cheques in a register and returning them with a memorandum of objections. Even if Ratan Lal acted contrary to the standing instructions it cannot be said that he acted dishonestly or with undue carelessness. In view of the contention of the Union regarding the prevailing practice it has not been satisfactorily established that all standing instructions are invariably followed in practice by the clerks concerned. We, therefore, direct that Ratan Lal shall be reinstated with effect from the 1st July 1949, the loss of pay for the period of more than seven months being sufficient punishment for his not having followed the standing instructions. We further direct that the reinstatement and payment to Ratan Lal of the pay and allowances due to him since July 1949 shall be made within a month of the publication of this Award.

No. 9. Badri Nath.—He is a member of the working committee and a refugee from Pakistan. He was transferred from Delhi to the Batala branch as an Accountant. The Union represented that he should not be transferred as he had a family of 14 members and his two sisters were at school in Delhi, where with the combined salaries of his father and himself the family could make both ends meet. Badri Nath also asked for cancellation of the transfer order. The Bank, however, did not comply with the request.

According to the Bank, after the partition he was a surplus hand at the head office and he was, therefore, appointed to the "Clearing Branch" and when the work of that branch was reduced he was transferred to the Batala branch. As instead of going there he remained absent he was dismissed. In this case no explanation was taken from Badri Nath. But it appears that the grounds on which he is relying were stated by the Union in their representation to the Bank. Those grounds must be deemed, therefore, to have been considered by the Bank. As a general rule the exigencies of the management and the proper working of the Bank and its branches must override the private needs and difficulties of an employee; and so long as the orders passed are not unreasonable or unduly harsh the Bank has a right to expect compliance from its employees. Simply because Badri Nath has a family of 14 members and two of his sisters are at school at Delhi he cannot expect to be kept at Delhi for all time, and in a case of this nature it would be difficult to substitute our views for those taken by the Bank. There can be no doubt that by remaining absent Badri Nath flouted the orders passed in regard to him and he deserved disciplinary measures being taken against him. But it would seem that in this case some disciplinary action of less severity would have been more appropriate to the circumstances. We think, therefore, that we should leave this case to the discretion of the Bank authorities for a review of their order, so that an order of less severity (*e.g.*, one whereby he may lose his salary for a part or the whole of the period he has remained absent) may be passed.

No. 11. Jaiwant Singh Jain.—He was transferred to the Saharanpur branch on the 9th April 1949 and on the 18th August 1949 he sent a letter of resignation which was accepted by the Bank. According to Mr. Parwana he was forced to send this letter but he is unable to produce any communication from Jain to that effect. In these circumstances we see no reason to interfere.

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No. 13. Shiv Charan Das.—He was transferred to Amritsar on the 21st June 1949 but he made a representation against the order of transfer which was cancelled on the 27th June, so that he can now have no grievance.

No. 14. Ashwini Kumar.—He was transferred from the Subzimandi branch to New Delhi and his confirmation has been withheld because of adverse reports that were received against him at the different places where he worked. He was told of these adverse reports and warned. He made no protest against the withholding of his confirmation till December 1949. He joined service on 3rd August 1948. The period after which confirmation is usually made is six months. The Bank has stated that in November 1949 it received a 'tolerable report' about him and that his case is still under consideration. That being so, it is unnecessary for us to give any directions.

No. 15. G. P. Gupta.—He was transferred from one department to another in the same office.

No. 16. R. P. Gupta.—He has resigned.

In these two cases it is not necessary for us to give any directions.

No. 17. Padam Singh.—His increment has been stopped on account of an adverse report. His explanation was taken but it was found to be unsatisfactory. According to the Bank the increment was stopped on receipt of a report from his branch to the effect that he was slow in work and indifferent to office orders. He made representations against the orders. Then a certain incident happened. According to the Bank, he had been told by the Branch Manager not to go away immediately when the office was closed but to wait for five or ten minutes for urgent matters. He refused to wait and went away. He was called upon to explain his conduct. He explained after a week that the allegation was not true. Mr. Parwana has not been able to explain why it took one week to give this simple explanation. Mr. Parwana, however, points out that no explanation as to his being slow in work and indifferent to office orders was taken from him. It is clear, however, that this criticism does not apply to his conduct in not complying with the instructions of the Branch Manager to remain for five or ten minutes after the office hours; and we are of opinion that his conduct in this regard was sufficient to justify the stoppage of his increment. We do not, therefore, think that any directions from us are called for.

No. 25. Lachman Singh.—It is alleged by the Union that he was the only peon on the working committee. His grievance is that he has been transferred from the head office to the Sadar Bazar Office which is seven miles from his residence, so that he has to make a long journey both ways every day in order to attend to his work and return home, which is at Daryaganj. His difficulty does not appear to have been brought to the notice of the management. It is not necessary for us to give any directions in a matter like this. The Bank has promised to look into the matter.

No. 27. Subedar.—His grievance is that he was transferred from the main office at Daryaganj to the District Manager's office, Punjab Circle, and again from there to New Delhi which is over three miles from Daryaganj where he lives. He has now been transferred to the main office and he can, therefore, have no grievance.

No. 38. Amar Nath Sharma.—According to the Union he has been denied the increments due to him since 1945. Mr. Ram Sahai on behalf of the Bank says that he holds a power-of-attorney and that when the salaries of power of attorney holders were revised, his salary, which was Rs. 101, was raised

to Rs. 120 with effect from the 1st October 1948. According to Mr. Parwana the earlier scale was Rs. 80—7—150, and since 1945 Amar Nath went on getting Rs. 101 without any further increment until the revision, and if he had got the increments at least for 1947 and 1948 he would have got more when the scale was revised. According to the Bank none of the men who came from Pakistan, Amar Nath being one of them, got any increment for 1947 because many of the people could not be fixed up, this being the general policy of the Bank. There is, however, nothing against him. Recently a very good report has been received regarding this employee. We do not know why it was not possible for the employees who came from Pakistan to get their increments due under the old scale. We think that Amar Nath should be given at least two increments up to the date when the salaries were revised and that thereafter he should be put on the new scale, and we direct accordingly. We further direct that the above directions shall be complied within one month of the publication of this Award.

No. 41. Bal Raj Kapoor.—According to the Union he was denied leave though he submitted a medical certificate. He then protested against his leave not being granted, whereupon the leave was sanctioned. He was transferred from the agency department to the establishment department and again to the agency department. This, according to the Union, constituted harassment. We do not think this is a case for our interference.

No. 48. Birbal Singh.—He was a daftary and it is alleged that duties of servant at the house of the Branch Manager for two years and there he worked for 11 hours daily. Mr. Ram Sahai says that there are strict instructions against such practice and that no complaint was received from Bachan Singh against this. The demand was first presented on the 6th August 1949. The General Manager of the Bank has promised to look into this matter, and we do not think we need pass any orders.

No. 48. Birbal Singh.—He was a daftary and it is alleged that duties of clerical nature were being taken from him since 1947 but that he was promoted to a clerk's post only in June 1949. The demand is that he should be paid as a clerk since 1947. In June 1949, when he was promoted, he was given the pay of Rs. 60, which is the basic pay of a clerk. Formerly, in 1948, his pay was Rs. 46 per month in the agency department in the head office. He made a representation on the 15th of April 1948 for revision of his grade with effect from 1st April 1948. But in the application he did not say that he had been working as a clerk. The Accountant made a report that he was a hard working man and recommended that his grade should be changed from Rs. 33—3—60 to Rs. 55—5—100. Thus there remains some doubt as to since what date, if at all, prior to June 1949 he had been working as a clerk. At the same time the Bank has not cared to traverse the statement made on his behalf that " duties of clarical nature being taken from him since 1947." There can be little doubt that the duties assigned to Birbal Singh were at least predominantly those of a clerical nature since some date at the latest in 1948. We think that the ends of justice would be sufficiently met if he is paid the basic pay of a clerk (subject to later increments) with effect from the 1st April 1948 from which he in his representation applied for revision of his grade to take effect. We direct accordingly. We further direct that this direction shall be complied with within one month of the publication of this Award.

No. 49. G. G. Saxena.—The Bank's case against him is that on 17th August 1948 he was found fast asleep on a chair and that as a disciplinary measure the local allowance of Rs. 10 was stopped for one month. His previous record as regards taking leave also was not satisfactory. He gave an explanation on the

25th August 1948 but it was not considered satisfactory by the Bank. The Union's grievance is as regards the withholding of the local allowance.

According to Mr. Parwana he was suffering from heart disease, and he produced a medical certificate to show this; and his explanation was that when he got an attack or a fit he had to remain quiet with his eyes closed for some time before the attack passed away. We also find it difficult to accept this explanation. The Head Clerk, Bhandari, who saw him sleeping has clearly stated that the explanation is definitely false. We do not interfere except in directing that the withholding of the local allowance for one month should properly be regarded as a fine and that if it exceeds the limits prescribed by the Punjab Trade Employees' Act, the fine shall be reduced to such limits within a month of the publication of this Award.

No. 50. M. P. Garg.—His complaint is that his travelling allowance bill is not paid. The Bank states that it is now prepared to pay the bill. No directions are, therefore, necessary.

PUNJAB NATIONAL BANK

Parduman Chander Dhawan.—The Punjab National Bank Employees' Union complained to this Tribunal on 22nd August 1949 that Dhawan in reverted in May 1947 from his post as accountant to that of a clerk, a new clerk being appointed direct in the vacancy caused by his reversion. It was alleged that the reversion was made without any reason being stated therefore. On the 18th September 1949, however, a letter was received from Dhawan asking for permission to withdraw his application. The application was, therefore, allowed to be withdrawn, and no directions are necessary.

Pyaray Lal Varma.—As he had often to take leave because he suffered from weeping eczema the Bank terminated his services on 18th November 1948. He has represented his case before the Labour Commissioner and it is still pending before him. The Bank's contention is that that being the case no orders should be passed by this Tribunal. We agree and give no directions.

The numbers shown against the employees whose cases have been dealt with below are according to the list given by the Punjab National Bank Employees' Union, Delhi.

No. 7. Shri Gurucharan Das Mahajan,
No. 8. Bawa Kalwant Singh Bhalla,
No. 10. Shri Des Raj Puri,
No. 11. Shri Swaran Dev Berry,
No. 12. Shri Daulat Ram Chawla,
No. 15. Sacchi Ram,
No. 21. Shri Mehr Chand,
No. 25. Shri Anand Kishore,
No. 26. Shri Chaman Lal Sachhar,
No. 27. Shri Panna Lal Anand,
No. 28. Shri Jas Raj Chona,
No. 29. Shri Nandlal Saini,
No. 30. Shri Jagdish Chand Bajaj,
No. 31. Shri Harkrishan Lal Bhatia,
No. 32. Shri Amar Nath Mehta,
No. 33. Shri Vidya Sagar Dir,
No. 34. Shri Mulk Raj Puri,

No. 35. Shri Ram Labhaya Kapur,
No. 36. Shri Jaswant Rai Chadda,
No. 37. Shri Ram Das Mohindra,
No. 38. Shri Dwarka Nath Duggal,
No. 39. Shri Shanti Lal Malik,
No. 40. Shri Jaswant Rai Katial,
No. 41. Shri Rabindra Nath Malhotra,
No. 42. Shri Manohar Lal,
No. 43. Shri Bhagwan Das,
No. 45. Shri Chaman Lal Talwar,
No. 46. Shri Amarnath Handa.

Mr. Puri on behalf of the employees' Union did not press for these cases and no orders are, therefore, necessary.

We now proceed to deal with the cases which were argued.

No. 1. Krishan Dev Shastri.—He was a clerk at the Guna pay office (Gwalior State) and was discharged in May 1949. The Bank has not pressed the question about the Tribunal's jurisdiction in this case.

The Bank's case is as follows. He was appointed in November 1946. In February 1949 he asked for weeks' leave. The Branch Manager reduced the period to one week. On 12-2-49 he wrote that if 14 days could not be granted to him that letter might be considered as his letter of resignation. No order was passed on it then. The one week's leave which was granted was not availed of. On 4-4-49 he again applied for leave from 2-5-49 to 28-5-49. This leave was granted. Before it was granted, however, he wrote on 24-4-49 to the Accountant in charge that if the leave was not granted he was determined to resort to a "fast unto death" as a protest. This letter was forwarded to the Delhi head office. The District Manager concerned at the said office ordered that he might be relieved and his dues settled immediately. Krishan Dev thereupon argued that as his earlier letter had not been acted upon it was not then open to the Bank to act on it. On 4-10-49 he wrote to the General Manager that his case had been taken up by the Punjab National Bank Employees' Union and he mentioned some assurance given to him by the District Manager which as a matter of fact, (according to the Bank) had never been given. On 25-10-49 he threatened to fast in front of the Bank's office unless the Bank pointed out a place where he should fast. These being the circumstances the Bank has contended that it was justified in acting upon his letter dated the 12th February and terminating his services.

Mr. Puri for the Union said that Shastri was a Gurkha and had lost his wife, that he wanted to go to Nepal to perform his wife's obsequial rites and in January he applied for one month's leave in February, and that leave was sanctioned, however, for 15 days and as he was starting on leave the whole leave was withdrawn. Mr. Anand pointed out that in his application to the Bank he had stated that he had taken a vow to visit Nepal at Shivratri and that there was no mention of the wife's death or obsequial rites. He had given his home address as Muzaffarganj and had passed out of Punjab University. According to Mr. Anand the allegation that he (Krishan Dev) was starting on leave in February but his leave was withdrawn is also false.

It is true that the Bank did not act at first on his letter of the 12th February 1949 in which it was stated that if 14 days' leave could not be granted that letter might be considered as his letter of resignation. It seems clear that it was because Dev threatened to fast unto death and again to fast unto death

in front of the Bank's office that the Bank authorities decided to terminate his services. It was hardly necessary, in these circumstances, to ask him to show why the Bank should not terminate his services on those grounds because those grounds were fully known to him. On the facts of this case we are satisfied that it is not one of victimization and does not call for our interference. We therefore, give no directions.

No. 2. Jokhan Panday.—This case was withdrawn by the Union.

No. 3. Gouri Shankar Puri.—He was arrested by the Police in connection with certain fraud and forgery case and was, therefore, suspended. On his being discharged by the Magistrate in September 1949 proceedings were held by the Bank on 20 heads of charges which were served on him on 18-10-49. In his letter dated the 24th October 1949 he said, "I am in no way bound to make a detailed reply to the charges of negligence levelled against me. I request you to reinstate me forthwith." As the matter was still pending before the Bank Puri was directed to submit his explanation to the Bank by 15-2-50, whereupon Mr. Parwana said that in view of this ruling he did not require any orders in this case, particularly as the case was also pending before the Chief Labour Commissioner. He, however, pointed out that Gouri Shankar was still required to attend the office though he did no work there and said that at any rate this practice should cease. The Bank agreed to stop this practice, and no directions from us, therefore, are called for.

No. 4. Ascharaj Lal Budhiraja.—According to the Union while he was an Accountant his pay was reduced from Rs. 200 to Rs. 170 though other Accountant's pay was not similarly reduced. The Bank's case against him is as follows: He was appointed in 1940 and was officiating as Accountant in 1944. In 1945 he was deputed to the National Bank of Lahore, his lien on his post in the Bank being kept. The National Bank of Lahore confirmed him as Assistant Manager and he worked in that Bank till February 1948. On his retransfer to the Bank he was appointed to his former post. His salary was fixed as if he had not gone to the National Bank of Lahore and had earned the due increments during his absence. He was, therefore, posted in the Bank on Rs. 145 per month made up of basic salary of Rs. 95 *plus* Rs. 50 the amount of the increments.

Mr. Puri on behalf of the Union said that the period of his absence from October 1945 to February 1948 was the book period and that he would have got more increments than Rs. 50, being a man of special merit. Mr. Puri cited some instances of employees who had been junior to Ascharaj Lal but were now getting Rs. 200 or more per month. It was suggested by the Union that Ascharaj Lal should have been made an Assistant Manager by this time. He joined the Bank in 1940 and one usually gets the Assistant Manager's post after about 15 years' service; and it does not appear that any prejudice has been caused to Ascharaj Lal by the Bank. There may have been cases in which persons who were junior to him have now become his senior, but though certain instances were cited by Mr. Puri, no suggestions bearing on their case were made in the original demands or in the particulars furnished to the Bank under the Tribunal's instructions, so that it is not possible to test the correctness of the assertions made regarding such cases. No case has been sufficiently made out, in our opinion, for interference by this Tribunal.

No. 5. Gurbachan Singh.—He was a clerk in the Central Office and according to the Union an active worker of the Union. His grievance is that an allowance of Rs. 10 has been denied to him for 11 months from November 1947 to September 1948. This was known as the reconciliation allowance. He

served in Pakistan and after the partition was posted to the agency section of the head office in 1947. His post carried this allowance. His work was inter-branch adjustment in this section and the posting of certain amounts and he did this work till September 1948. According to the Bank he now gets Rs. 92 *plus* Rs. 35 dearness allowance plus *Rs.* 15-5-0 as bonus. He was given the work of reconciliation of branch accounts with an allowance of Rs. 10, but was found unsuitable. The Bank has promised to see his record and if he has not been paid for such work he will be paid the amount due, though there is no written representation from him on this point. This does not appear to us to be a case for our interference.

No. 6. Ram Chand Kakar.—He served in Pakistan and was dismissed on the 27th July 1948 after 27 years' service, though he had not reached the age of 55. The Bank's case is that he joined in 1921 as a despatcher and he worked as a clerk thereafter. When his services were no longer required they were terminated after payment to him of one month's salary in lieu of notice. There is nothing against him and the Bank has promised to see if he can be accommodated. Though he had not reached the age of 55 he had put in 27 years' service. As the Bank has promised to see if he can be helped we do not think that any directions from us are necessary.

No. 9. Avinash Chander Thakur.—He was the regional Secretary of the Union and according to the Union he brought to light a fraud committed by the Bank Manager. The Bonus due to him, *viz.*, Rs. 32-8-0 was forfeited in June 1949 and the increment due to him for 1948 was not given. According to the Bank he was responsible for two debit entries for Rs. 3,325-1-0 in respect of the Gandhi National Memorial Fund when there should have been only one debit entry to the account. The Bank came to know of the mistake in time and reversed the entries, but if the mistake had not been discovered there would have been a loss of Rs. 3,325-1-0. There is no doubt that the entry was passed by one Kapoor who was a supervisor but the Bank is right in taking the view that he, being the Accountant, was responsible for all the accounts. According to the Bank the only penalty imposed was the forfeiture of the bonus, while as to the increment for 1948 it has not been stopped and is still under consideration. We think that the mistake for which he must be held responsible was a serious one and the Bank was justified in forfeiting his bonus. No directions are, therefore, necessary.

No. 13. Bal Raj Mali.

No. 14. Ram Itwari.

No. 16. Jassi Ram.

These are menials and they have not yet been confirmed. Their cases were due for consideration but nothing was done as the matter came before the Tribunal. There is, however, nothing in the Act which prevents the Bank from confirming these men and the Bank should, therefore, proceed to consider their cases. No further directions are necessary.

No. 17. Tara Chand.

No. 18. Lajpat Rai Sehgal.

These are similar cases. The Bank stated that if there was nothing against them they would be duly confirmed. We give no directions.

No. 19. Malik Udho Das.—He was in Pakistan and was discharged on 20-4-48. According to the Bank he was a nominee of the Guarantee Broker and was a godown keeper at Jhamke Mandi (Pakistan). The pay office at

which he was working was closed after the partition. On 24th April 1948 he asked for re-instatement but the District Manager said that the pay office in Pakistan showed loss and that no District Manager was prepared to take him. His provident fund including the Bank's contribution was recommended to be paid by the District Manager, but in view of certain facts this was not done. Those facts are that on 9-8-1947 he had released goods worth Rs. 17,000 pledged with the Bank on account of Messrs. Iqbal Singh Kalyan Singh & Co., in Pakistan without receiving any payment, that the Bank had been unable to realise its dues, that a charge to this effect was given to him and explanation was asked for and that his explanation, which was found unsatisfactory, was that he had released the goods against a guarantee letter of the Government's clearing agent Narayan Singh. That alleged guarantee letter has not been produced. As he was careless enough to release goods worth Rs. 17,000 without having received payment on the strength of a letter the existence of which has not been established, we cannot find that the action of the Bank was not justified. We give no directions.

No. 20. Chander Bhan Bhatia.—He has been described as a court clerk (*i.e.*, clerk who attends to litigation work). His complaint is that while he was at the head office, New Delhi, he was discharged on the 28th April without any reasons being given. Later on he was informed by the District Manager on the 10th July 1948 that he had been discharged "as you are not fit for hard work required of a Bank employee". On 11th March 1949 he asked for refund of the security deposit which was paid by the Bank together with the amount due to him out of the provident fund. The present application is dated the 19th September 1949. It is alleged by the Union that there were two court clerks. Bhatia and Suraj Mal, and that Suraj Mal is still working. According to the Bank the work of the Court clerks has fallen considerably and as there was not enough work his services had to be dispensed with. Mr. Parwana states that Bhatia was first in the Law Department, that in May 1945 he was transferred to the office of the District Manager, Lahore Circle, and that after partition he was working under the District Manager, Pakistan Circle at Delhi. In March 1948 he asked for an Accountant's post and his name was marked for such a post. But in April he learnt that his name had been placed on the 'spare' list. On the 22nd April he wrote to the District Manager that his name had been placed on the spare list "as if his services were no longer required" and he requested that he should not be discharged.

Thus it seems that the Bank dispensed with the service of Bhatia on two grounds, *viz.*, (1) that the work which he had been doing had decreased and (2) that he was not fit for hard work. On the 22nd October he informed the Bank that he was prepared to stand a medical test and to give 8 hours continuous duty as well as to compete with the other employees of the Bank and he mentioned his output as 40 letters a day when he had been in the office of the District Manager, Pakistan Circle. Mr. Anand has admitted that Chander Bhan did not leave any accumulations of work at any time; in any case the Manager had not heard of it. It was also admitted that when he applied for an Accountant's post on 8th March 1948, Mr. Sethi, Assistant to the District Manager, had given the following opinion: "Mr. Bhatia is a competent and hard working hand and I have great pleasure in recommending his case for raising his status from the senior grade clerk to that of an Accountant". The District Manager's order was, "His case will be taken up whenever vacancy for the post of an Accountant occurs." It is true that no motive against him

has been alleged and there is nothing to show that there was any enmity or that he indulged in Union activities. According to Mr. Bhatia his duties were to put before the Manager the debtors' and clients letters in the liquidation department which was created with a Manager on special duty in September 1948. He had also to obtain orders on such letters, to write to the debtors and carry on correspondence; and he says that he did not take part in preparing cases for the Court, nor did he attend the Courts since May 1945. Mr. Parwana also produced a copy of Bhatia's letter dated 20th December 1948 addressed to Mr. Yodh Raj, General Manager and Chairman, in which he said, "I am prepared to go anywhere in India and even beyond, the boundaries in India for the remaining period". Bhatia would have attained the age of 55 in 1950. He was considered competent and hard working and the allegation of the Bank made before his discharge that he was not hard working seems to be inconsistent. He was specially noted for promotion for the post of an Accountant and shortly thereafter his services were dispensed with. It is difficult to see why this was done; it seems that he has been unfairly dealt with, for *prima facie* he should have been allowed to serve till he attained the age of 55. On retirement he might have been entitled to a gratuity; and before he retired he might have even taken certain amount of privilege leave, having 46 days privilege leave due to him. It is possible that seeing that he was marked for the next vacancy of an Accountant it was in the interest of some one in the office to get him out of the way, and this might be the explanation why for apparently insufficient reasons his services were dispensed with. We think that he would be sufficiently compensated for the treatment meted out to him if he be paid six months salary and allowances within a month of the publication of this Award. We direct accordingly.

No. 22. Ram Parkash Bhalla.—According to the Union he worked at the Kashmiri Gate branch, Delhi as officiating supervisor since March 1948. His confirmation was due in March 1949 but his officiating allowance of Rs. 10 per month was withdrawn with effect from 1st April 1949. According to the Bank the Branch Manager recommended his appointment as Supervisor but this could not be given effect to as there was no vacancy, though he had officiated as supervisor on many occasions. There is nothing against him. Mr. Puri on behalf of the Union however, said that for some months he had not been paid for supervisor's work done by him, *viz.*, from 1st April 1949, till September 1949. These particulars were, however, not furnished to the Bank and the Bank is unable to verify the statement. We direct that Mr. Puri's allegation should be looked into by the Bank and that if Bhalla has done a supervisor's work without being adequately paid therefor, the balance due in respect of such work shall be paid within a month of the publication of this Award.

No. 23. Purshotam Lal Syal.—According to the Union he was an officiating Accountant at the Head Office, where he had come from Pakistan, from 16th April, 1948 and he has not yet been confirmed though there is a permanent vacancy. This according to the Union, is on account of his trade union activities. The Bank says that there is no permanent vacancy. The Officer-in-Charge (West) has ordered that Syal should continue where he is at present till a vacancy occurs. Mr. Puri says that the period of confirmation is six months and that Syal is not confirmed because he is the Vice-President of the Union. Mr. Anand on behalf of the Bank, states that he is officiating in a non-permanent department, *viz.*, the Pakistan Department, that on 29th October, 1949, the District Manager reported that he had become 'spare', giving facts and figures,

but that Secretary West ordered that he should continue where he was. The rule as to confirmation in six months came into force in November 1949; before that the period was one year. We direct that as soon as there is a permanent vacancy Syal shall be confirmed subject to any existing rules regarding confirmation.

No. 24. Gurdas Mal.—He was a peon at the Head Office at Delhi and it is alleged that the annual increment which was due to him on 25th May 1949 was not granted to him on the ground that he had attained the maximum. At that time the maximum pay for a peon was Rs. 39; now it is Rs. 40, in the scale Rs. 25—½—40. Mr. Puri said that another peon named Dubri was getting Rs. 41 *plus* a Jamadar's allowance. This particular, however, was not furnished to the Bank when the employees were required to furnish the necessary particulars to the Bank to enable it to reply. That being so it cannot be said that the man has any real grievance, and no directions are necessary.

No. 44. Madan Lal Sabharwal.—The complaint is that his basic pay since his transfer from Karachi has been reduced. But according to the Bank he was getting at Karachi basic pay of Rs. 55 *plus* Rs. 15, besides Rs. 28 (40 per cent of Rs. 70) as an emergency allowance given to persons serving in Pakistan after the partition. He was given a further increment of Rs. 15 *plus* 40 per cent thereon in consideration of the fact that he was discharging, when at Karachi, double duty in the office and assisting the Manager in the work of evacuation of the staff of the Bank in Pakistan. Thus in Karachi he got Rs. 119 per month when he came to the head office in Delhi he was paid his substantive salary Rs. 70 (Rs. 55 *plus* Rs. 15) and from 1st May 1948 he was granted an increment of Rs. 3 according to the rules of the Bank. He also got a local allowance at Delhi of Rs. 10 along with the other employees. Thus he got altogether Rs. 83. He was promoted to the Senior Grade with effect from 1st May 1949 getting an increment of Rs. 5, and thereafter an *ad hoc* increase in his emoluments of Rs. 7, which was given to all clerks at Delhi, was also granted. Therefore his emoluments, apart from dearness allowance, came up to Rs. 95. He has individually made no representation to the Bank. All that Mr. Parwana could say was that he had done his work under considerable pressure and had to attend to a large number of matters like the granting of loans, staff matters and confidential reports and that he had saved a large number of persons at the risk of his life in Karachi and that, therefore, a promotion of Rs. 100 was recommended in his case, while the head office granted Rs. 15 only. We do not think that he should have any real grievance and we do not wish to interfere.

We now proceed to deal with certain issues which were heard at Dehra Dun because they related to questions peculiar to the Banks and their branches is the East Punjab and Delhi.

Issue No. 29 in the Government Order.—The Union concerned states that the three peons mentioned in the notification have now resigned, so there is nothing left for the Tribunal to do.

Issue No. 15 (b).—Mr. Anand for the Punjab National Bank stated that on the 1st January 1945 the Bank took out a Fidality Guarantee policy, in two parts, from the National Security Assurance Company, in respect of officers and non-officers, the Bank paying the premium. The policy was renewed in 1946 and 1947. During these three years a number of cases of defalcation and misfeasance occurred involving a loss of about 10 lakhs of rupees. The whole amount was recovered from the Assurance Company. Thereafter the Company refused to renew the policies. Therefore on the 27th January 1948

a scheme was devised by the Bank under which (1) the security amounts required from the employees who had to provide guarantees were raised (for peons to Rs. 1,000, daftaries Rs. 2,500 and clerks Rs. 5,000), and (2) where the security for such large amounts could not be found such employees were to contribute to a Guarantee Fund, the contributions being annas 4 per month for peons, annas 8 per month for daftaries and Re. 1 per month for clerks. The Bank contributed like amounts. Trustees were appointed, one of whom was a senior member of the staff. No contributions were refundable. In case there was a loss due to dishonesty, etc., it was to be recovered from the cash security of the person in question and his property and thereafter from the Bank's contribution to the Provident fund of the person in question and lastly from the Guarantee Fund. In the Reserve Bank, however, where there is a Guarantee Fund, the workmen get back their contributions, but the Bank does not contribute anything to the fund. The employees wanted such a provision to be inserted and accordingly the Bank amended the scheme. The amendment provides that on termination of services or transfer to an appointment where guarantee is not required, if there be any amount to the credit of a person, a bonus would be paid and that such bonus would be in the same proportion to the amount standing to the credit of an employee as that which the fund of the group to which the person belongs bears to the aggregate amount standing to the credit of the members of the group in their individual accounts. The Bank continues to pay its own contribution to the fund. There is a further provision that an amount equal to the bonus paid is to be paid to the Punjab National Bank Employees' Association for benevolent purposes in aid of employees, their widows and orphans, etc. This part of the scheme is objected to by the employees. It is said that as a consequence of the introduction of the Guarantee Fund the losses of the Bank have become considerably less. In 1949 they amounted to only Rs. 13,000 and in 1948 to a still lesser amount. On the introduction of the amended rules the security amounts required have now been reduced. For clerks, for instances, they have been reduced to one month's substantive salary.

Mr. Dharam Vir Taneja for the Punjab National Bank Workmen's Union said that the scheme would penalise the majority for the faults of few and was objectionable in other ways also. Mr. H. L. Puri of the Employees' Union wanted the matter to be argued again at Bombay; but none of the representatives of the employees, could suggest a better scheme than the one introduced by the Bank.

A good deal of arguments have been advanced before us at Bombay on the question of the pension and guarantee fund, on behalf of the Imperial Bank of India. Mr. Singh of the Punjab National Bank has joined in the discussion on behalf of his Bank. Three main objections have been raised on behalf of the employees. The first related to the absence of a provision as in the Reserve Bank that the workmen were to get back their contributions. That objection has been met in this Bank by the amendment which I have referred to above. The second objection is as regards payment of an amount equal to the bonus to the Punjab National Bank Employees' Association for benevolent purposes, as it is not clear whether the said Association is representative of a majority, or even a large number of the employees of the Bank. The objection appears to us to be valid. At Dehra Dun the Bank did not take up the question, as in the case of the guarantee fund of the Imperial Bank of India at Bombay, that the fund being a trust property was beyond the jurisdiction of the Tribunal. It would seem, however, that the trustees of the fund in this case do not constitute an independent body, though there is a provision that the fund

should vest in trustees, but that they are subject to the superintendence and control of the directors, at least to a large extent. That is probably why Mr. Anand for the Bank did not raise the question of jurisdiction. In any case we recommend that the provision regarding the payment of an amount equal to the bonus to the Punjab National Bank Employees' Association should be deleted and that the said amount should be put into a separate fund for benevolent purposes in aid of employees, their widows, orphans and dependants to be administered by a Committee consisting of an equal number of persons nominated by the Bank authorities and persons nominated by the employees; and the latter nomination should be made at a meeting held once in three years by persons elected for the purpose at meetings previously held by the employees at the head office as well as by those at the branches, irrespective of the Association of Unions to which they may belong.

Issue No. 16.—This issue concerns the recognition of (i) The Punjab National Bank Employees' Union (East Punjab), (ii) The Bharat Bank Employees' Union, Delhi, and (iii) The United Provinces Bank Employees' Union.

(i) *The Punjab National Bank Employees' Union (East Punjab).*—It was pointed out that the term 'recognition' was used probable for the first time in the Trade Unions (Amedment) Act, 1947, and that the Act had not yet been brought into force. The Union wanted recognition in the sense used in the Act with the consequences stated in the Act, and in any case, it contended that its claim for recognition constituted an industrial dispute. It was, however, found that the Union had not complied with the provisions of section 28 D, clause (d), of the said Act under which, if the Act applied, its rules should provide for the procedure for declaring a strike. It seems to us that it would not be proper, in such circumstances to direct although the Trade Unions (Amendment) Act, 1947 has not yet been brought into force the Bank should recognise the Union in the sense used and with the consequences stated in that Act.

(ii) *Bharat Bank Employees' Union.*—This Union was recognised by the Bank on the 11th November 1948 but the recognition was withdrawn on the 7th December 1948 during the strike declared by the Union. The Union has 455 members out of a total body of 3,000 workers of the Bank. Mr. Parwana tried to show that the Union was confined to the Delhi employees, but the constitution of the Union says that it is open to all employees of the Bank. That being so, even if the Trade Unions (Amendment) Act, 1947, applied to condition (b) stated in section 28 (D), *viz.*, that the Union should be representative of all the workmen employed by the employer, has not been fulfilled. Condition (d) in the said section also has not been satisfied. All that the President of the Union could show was that on the 11th January 1949 the General Council had passed a resolution that a strike should be resorted to as a last measure and that it might be declared jointly by the President and the Secretary. This cannot be said to constitute the provision of sufficient procedure for declaring a strike in the rules of the Union. For such a rule should at least provide for the giving of a notice to the Bank, the period of such notice and consideration of any action taken or proposed to be taken by the Bank. Even if, therefore, the Trade Unions (Amendment) Act applied recognition of the Union could not have been directed. We, accordingly, reject the demand of the Union.

(iii) *United Provinces Bank Employees' Union.*—There was no representative of the Union present and at Lucknow the Union's representatives expressed their desire that their case or recognition should be taken up at Bombay. No orders, therefore, need be made in this behalf in this Award.

The Allahabad Bank Employees' Union.—This union also claimed recognition though that Union is not mentioned in Schedule II to the Government Notification of the 13th June. Its membership is 106 out of a total staff of 160, so that it is no doubt representative in character. The Union representative read out a passage from an Award by Mr. S. P. Varma on an industrial dispute between Messrs. Talcher Coal Fields Ltd., and their workmen, wherein he has referred to the remarks of the adjudicator in a dispute between Messrs. Robert McLean & Company, Ltd., and their employees, published by an order of the Government of West Bengal, dated the 22nd January 1948 in the Calcutta Gazette. The learned adjudicator had observed that "nothing but advantage can accrue to the Company by recognising the Union" and he had directed that the Company should recognise the Union. Following this decision Mr. Varma stated in the dispute before him that the Company had not been able to substantiate its charge that the Union was indulging in illegal strikes and the Company could not disprove the fact that the Union counted among its members the majority of the workers, and he, accordingly, directed that the Union should be recognised. Mr. Dayaldas for the Union admitted that the Union had made no rule as required by section 28D, clause (d), of the Trade Unions (Amendment) Act, 1947. In this case also, therefore, the Bank cannot be directed to recognise the Union.

The Allahabad Bank Employees' Union, Delhi Branch, claimed overtime allowance for the extra work the workmen had put in at the half-yearly closing of the Bank on the 31st March 1949. They were entitled to such allowance for working after 7-30 P.M. on that day. Mr. Dayaldas on behalf of the Union said that the management had kept a sum of Rs. 250 for overtime allowances, but that the allowances calculated on the number of extra hours actually put in amounted to about Rs. 350, that the management tried to persuade the workmen to reduce their claims but that on this suggestion being refused Murarilal, Assistant Accountant, who had been deputed to supervise the overtime work, made remarks on the attendance register reducing the number of hours of work showing against the names of the workmen concerned. It was said that instead of sitting in the Bank for the whole of the night when the work was going on Murarilal left at 6 or 6-30 P.M. According to Mr. Dayaldas an allowances of Rs. 261-6-10 was offered to the workmen but all of them, except six men, refused the offer.

As to the facts Mr. Amarnath Khanna, Accountant of the Bank, who ordinarily would have supervised the overtime work, was examined. He said that owing to his illness his assistant Murarilal was deputed for the supervision work. At first he denied the allegations made by Mr. Dayaldas but later on stated that the evidence given by him earlier was incorrect, and that the workmen's claim based on the original timings as shown in the register was correct. We, therefore, direct that the workmen's claim to allowance for extra work on 31st March 1949 should be paid according to the hours originally shown in the register kept for the purpose.

The workmen of the Bharat Bank who struck work during the period from 3rd December 1948 to 9th December 1948 and from 9th March 1949 to 20th March 1949 have claimed that they should be paid their full wages and allowances for the said strike periods. According to Mr. Parwana on the 4th October demands were made to the Bank authorities but nothing was done and on the 22nd October a reminder was sent but there was no reply. On the 3rd November there was another reminder in which it was said that unless a reply was received by the 10th November there would be a strike ballot and that the Union

would carry out the mandate received with effect from the 3rd December 1948. To this also there was no reply. A number of people were, however, transferred, for instance, the President was first sent to Nagpur and then to Sadarbazar, Delhi, and then to the office of the District Manager, Punjab Circle. Badri Nath a member of the Working Committee was transferred to the Batala branch and A. C. Chauhan, a founder member of the Union, was transferred to Nagpur and from there to the Punjab Circle. All this, according to Mr. Parwana, was an attempt to harass and weaken the Union. On account of this harassment notice of an earlier strike was given and that strike commenced on the 11th November 1948. On that day, after one hour's strike, the Union was recognised by the Bank and an assurance was given in writing that there would be no victimization. On the 27th November 1948 the Negotiating Committee met the authorities, but with no result. Therefore a strike was commenced on the 3rd December 1948. The matter having been referred to the Chief Labour Commissioner the dispute was referred for adjudication on the 9th December and under section 10(3) the continuance of the strike was prohibited whereupon it was called off. That is the version of the Union of the events leading up to the strike which commenced on the 3rd December. Mr. Anand for the Bank has contended that there was no reason for the strike at all as on the 8th November 1948 the Bank issued a circular to the effect that the question of emoluments would be considered and if given would be given with effect from 1-10-1948, so that after this day the Union as such should have had no grievance, their main demand being for greater emoluments. But still, he said as Mr. Parwana had been transferred the strike was actually commenced on the 3rd December. This is apparent, according to Mr. Anand, for on the 10th November 1948 the Union gave a notice which referred to Mr. Parwana's "victimization" and stated that its demands must be satisfied by the same evening, which was an impossible demand. On the 29th November the Bank wrote a letter to the Union saying that at the meeting between the Union and the Bank authorities a new demand had been presented that no one who was on the Working Committee should be transferred, all its members being indispensable to the Union, that the Bank had suggested a reference on this question to the Labour Commissioner, and that to this suggestion the Union had not agreed. The circular of the 8th November was given effect to on the 29th November 1948 and on the latter date the Labour Commissioner was informed of this. On the 2nd December the Bank also wrote to the Director of Industries and Labour as to what had taken place. On the 7th December 1948 the Bank's recognition of the Union was withdrawn and on the same day the Bank intimated to the staff that the management was prepared to pay them salary for the strike period if those who had gone on strike rejoined their duties by the 8th December 1948. Therefore, according to Mr. Anand the Union was not justified in going on strike. After the letter of the Bank dated the 29th November the Union in their letter dated the 2nd December 1948 wrote, "The Union considers your charges as false, vexatious and malicious" and "we shall reply in detail later on". No such reply however was given.

The main contention of the Bank was that as on the 29th November the emoluments were revised with effect from 1-10-1949 the Union had no legitimate ground for going on strike. The Bank also appears to be correct in the statement that at the meeting which took place between the Bank authorities and the Union on the 27th November the Union put forward a new demand which had not been made before. It seems to us that merely because the President had been transferred elsewhere and this new demand was not granted the Union was not justified in going on strike on the 3rd December. We, therefore, do not

think that for the period of the strike the workmen should be allowed their emoluments.

As to the strike from the 9th March to the 20th March 1949 we have already stated in our award regarding the victimization cases relating to this Bank that neither the Union nor the Bank was free from blame in respect of the facts leading up to the strike. We have, however, given a direction as to the reinstatement of such of the persons as were discharged and allowed them relief as to pay and allowances for a certain period. We are unable to hold that any further relief should be granted for the period of the second strike.

K. C. SEN,
Chairman,

J. N. MAJUMDAR,
Member.

BOMBAY;
Dated the 22nd February 1950.

(*Vide* Gazette of India Extraordinary, dated March 23, 1950, pp. 1071—1094.)

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(9)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 4th April 1950.

No. LR-90 (8)/I—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. D. J. Ladha of the Laxmi Bank Ltd., Akola (Madhya Pradesh).

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

The Laxmi Bank, Limited Akola

AND

D. J. Ladha.

In the matter of alleged victimisation.

Appearances.—Mr. B. S. Agarwal, Assistant Secretary, Laxmi Bank, Ltd., for the Bank,
Mr. D. J. Ladha in person.

AWARD 293

The following case of alleged victimization was heard at Nagpur on the 11th March 1950 :—

The complaint of Mr. D. J. Ladha, a clerk dismissed from the Head Office of the Laxmi Bank at Akola on 8-1-1949 was as under : He had been confirmed as a clerk in 1945. In January and February 1947 he tendered his resignation thrice, but the resignation was not accepted. In January 1947 the Central Bank, Akola branch, had offered him a cashier's job. In one of his applications he stated that being unwilling to work in the record *Khata* which had been assigned to him he wished to resign. Some time later he wanted an advance from the bank but when it was refused he left the office on 13-6-1947, as he was roughly and discourteously treated and told to leave the office. He never came back to office. Five days later he wrote to the bank that he could not return to duty unless he was asked to rejoin. On 8-1-1948 he received orders that his services had been terminated with effect from 5-7-1947.

The Bank's case is as follows : He was an unwilling worker, quarrelsome and often insubordinate. On 13-6-1947, when his request for an advance was turned down, he created an unpleasant scene and had therefore to be told to leave the office. This did not mean he was told never to come back to office again. He remained absent till 27-6-1947 and thereafter attended office till 4-7-1947. From 5-7-1947 he never cared to attend, apparently because he tried to get jobs elsewhere. In 1948 he got a job in the Rajasthan Printing Works where he worked for 3 months. He is now working in the firm of Messrs. Suganchand and Co. The bank authorities waited for his return till 8-1-1948 (more than six months) and then passed orders regarding termination of his services as he could not be shown indefinitely as an absentee clerk.

Ladha denied that he ever attended office after 13-6-1947. But the Bank's muster roll clearly shows his signatures against June 28 and 30 and July 2 to 4 (June 29 and July 1 being holidays). In his letter of 18-6-1947 to the bank he said that unless he got any reply he would be " constrained to take legal refuge ", but he never did so. He admits that there was an exchange of " hot words " between himself and the Secretary of the bank on 13-6-1947 when the bank authorities refused him an advance on the ground that it was a matter within their discretion. According to Mr. Agarwal, Assistant Secretary of the Bank, who appeared before the Tribunal, the Secretary told him (Ladha) to go to his chair, he went there shouting all the time, and when Mr. Agarwal told him to stop shouting he said, " I shall see how the Secretary refuses me an advance ", whereupon he was told, " Either get out of the office, or a peon will be told to take you out of the office ", after which he went out shouting.

Ladha admitted that he saw the General Manager after 18-6-1947 and that the General Manager had no grudge against him, but says that he did not get the bank's letter of 8-1-1948 informing him that his services had been terminated. The bank's despatch register, however, includes this letter among the letters despatched on that day. Ladha further says that he went to see the General Manager (who signed the order regarding the termination of his services) to discuss matters unconnected with his present grievance. He said finally that the bank had been indulging in malpractices, that he discovered this and brought it to the General Manager's notice and that he was, therefore, got rid of. At the same time he admits that none in the bank took him to task or threatened him on this account and says that he has not spoken of this matter to anybody but the General Manager up till now.

It is clear that this is not a case in which we should interfere. Ladha clearly went back to his work after 27-6-1947 and attended office thereafter upto 4-7-1947. Why he absented himself for over six months thereafter is not clear; he was probably looking for a job. In any case even though he was told to leave the office on 13-6-1947 it cannot be said that he was ordered not to return to it or prevented from returning, as the fact that he did attend on 28-6-1947 and subsequent days sufficiently shows. It is clear that all his statements cannot be regarded as reliable, and the *bona fides* of the bank are sufficiently shown by the fact that no order against him was passed for over six months after 5-7-1947 from which date he absented himself. We do not think that this is a case in which we should interfere. We, therefore, make no directions in this case.

(Sd.) K. C. SEN,
Chairman.

(Sd.) J. N. MAJUMDAR,
Member.

(Sd.) N. CHANDRASEKHARA AIYAR,
Member.

BOMBAY:
Dated the 24th March 1950.

S. C. AGGARWAL,
Deputy Secretary to the Government of India.

(*Vide* Gazette of India, Part I, Section 1, dated April 15, 1950, pp. 64-65.)

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(10)

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 12th April 1950.

No. LR-90(9)/I.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the All India Industrial Tribunal (Bank Disputes), in the matter of alleged victimisation of Mr. T. P. Malaviya of the Bharat Bank Ltd.

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BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

ADJUDICATION

BETWEEN

Bharat Bank, Limited

AND

T. P. Malaviya

In the matter of alleged victimisation.

Appearances :

Mr. R. N. Seth for the Bank

Messrs. J. N. Mehrotra, K. C. Gupta, A. C. Kakar, Harmangal Prasad, S. D. Misra, Padamchand, K. N. Mehrotra, Bukumchand and R. M. Tandon of the U. P. Bank Employees, Union for Mr. T. P. Malaviya.

AWARD

The above case was heard at Lucknow on the 23rd December, 1949.

Malaviya was working as a Sub-Manager of the Lucknow Chowk branch of the Bank. This branch ceased to exist on the 14th August 1948 and his services were transferred to the Hazaratgunj branch at Lucknow. On the 6th October 1948, he was transferred to the Kanpur branch as an Assistant Manager. Although this order was in contravention of the U.P. Government order No. 5890 (ST) XVIII-142 (ST) 48, dated the 23rd September 1948 he did not take any exception to it as he was an old employee and he joined the Kanpur branch on the 5th November 1948. From there he was sent to Fatehpur where he worked as Controller of Shree Maheshwari Rice and Oil Mills. He protested unsuccessfully to the Bank against this transfer. He then made a representation to the Labour Commissioner, but, as he got no reply till the 10th November 1948 he proceeded to Fatehpur. While working at the Mills he fell ill and went on leave on the 24th January 1949. While on leave he made several representations to the Bank authorities pointing out difficulties in working in the Mills and he wanted a transfer to Bank work, but without any result. As another man was posted in his place at the Mills, he enquired about the place where he should join on the expiry of his leave but he got no reply. He then again made a representation to the Labour Commissioner who expressed his inability to interfere as he had accepted the post of Controller of the Mills. As soon as the Mills were closed, while he was still on leave, he got a letter from the Bank dated the 12th May 1949 intimating him that in view of his unsatisfactory work it had been decided to terminate his services. On receipt of this letter he wanted to know in what respect his work was found unsatisfactory and under what rule such drastic action had been taken, but he received no reply. It is contended on his behalf that though his designation was that of a Controller he was only to look after the storage and delivery of the stock which duty could be performed by the godown keeper. His complaint is that he was given no particulars of

the grounds of his dismissal nor was he afforded any opportunity to offer any explanation, and that his services have been dispensed with, leaving a blot on his record, at a time when, due to his age, it is difficult for him to secure another job. He has asked for various reliefs.

The Bank has filed a statement and contended that he was an Officer and, therefore, the Tribunal has no jurisdiction, that while he was Sub-Manager at the Lucknow Chowk branch his work was found unsatisfactory, in that on one occasion owing to his negligence an outward bill for collection for Rs. 278-4-6 was paid twice over to the customer, that when the Chowk branch was closed he was temporarily attached to the Hazratgunj branch to settle the outsanding matters of the Chowk branch and that when those were settled, though he became a surplus hand, in order to keep him in appointment he was transferred to Kanpur as Assistant Manager. It is further stated that as he took leave he was deputed to act as Controller of the Mills because an experienced man was necessary there; and that after working there for a few weeks he took leave from time to time and went on requesting the Bank for his transfer to Kanpur or Lucknow. It thus appeared to the Bank that either he was unwilling to discharge the duties entrusted to him or his health was too poor; and his services were, therefore, dispensed with after giving him one month's salary in lieu of notice.

If we consider the reasons mentioned in the Banks' statement (which were not stated in the letter of dismissal) as reasons for the dismissal we are constrained to come to the conclusion that they are not the true reasons, or even if they were, dismissal on those grounds cannot be justified. The unsatisfactory work alleged in the statement of the Bank was the payment by him of Rs. 278-4-6 twice over to a customer when he was the Sub-Manager of the Lucknow Chowk branch. The fact that he was continued in employment at Hazaratgunj and Fatehpur, although he is now stated to have become a surplus hand, sufficiently negatives the Bank's case, in our opinion, about his alleged unsatisfactory work. The Bank admits that he was retained on account of his experience. His repeated request for transfer to Bank work, which in our opinion was a legitimate request, did not find favour with the management, his approach to the Labour Commissioner in respect of this matter was not liked by it and there might be other reasons of which we are not aware; these appear to have led to his dismissal on the pretext of the unsatisfactory nature of his work. It would be pertinent to point out that the Bank did not supply him with any particulars when he enquired about the alleged unsatisfactory nature of his work.

Our attention has been drawn to a typed letter dated the 10th November 1948 addressed by the Manager appointing him the Controller of the Mills wherein it has been stated that his designation in bank services remains unchanged. He has stated that when he was transferred to Kanpur as Assistant Manager he did not hold an independent charge of the office with powers to appoint and dismiss any employee of the Bank, that he had the power merely to supervise the office routine and as such he was a workman as defined in the Industrial Disputes Act, and that similarly as Controller of the Mills he was not given complete charge of the Mills but had simply to supervise storage and delivery of the stocks and as such he was a workman. The Bank, on the other hand, has stated that when he was transferred to Kanpur and posted as Controller of the Mills his designation and remuneration remained those of an officer. But the Bank has not disputed his statement about the nature of the work that he had to do either in his capacity as Assistant Manager of

Kanpur or as Controller of the Mills. At the bottom of the letter of the 10th November 1948 already adverted to, there is something in writing in the nature of an acknowledgment over the signature of Malaviya. It has been alleged on his behalf that this writing is a forgery and that it was not in existence when Malaviya put his signature to this letter. We do not think that this writing has any direct bearing on the question we are considering and the view we have taken about jurisdiction. It does not, therefore, appear to us necessary that we should express any opinion as to this writing. No evidence has been adduced on behalf of either of the parties to prove the nature of Malaviya's duties. We have, therefore, to proceed on the statement on record; and we do not find that the allegation of Malaviya as to the nature of his duties has been disputed by the Bank. We are inclined to hold that he was a workman. Accordingly we direct his reinstatement within a fortnight from the date of the publication of this Award and further direct that he shall be paid, within the same period the salary and other allowances he would have earned during a period six months.

K. C. SEN, *Chairman.*

J. N. MAJUMDAR, *Member.*

N. CHANDRASEKHARA AIYAR, *Member.*

BOMBAY :

Dated the 30th March 1950.

S. C. AGGARWAL,
Deputy Secretary.

(Vide *Gazette of India*, Part I, Section I, dated April 22, 1950, pp. 87-88).

NOTE.—Original copies of the awards, which have been submitted to the Government of India but not yet published have been put (only in the first copy) in Appendix IX to the award. One copy each of Tribunal's order's in respect of section 33 matters has been put in Appendix IX to the award (only in the first copy).

[No. LR. 90 (43).]

K. N. SUBRAMANIAN, Joint Secy.

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PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. D. 6188—Geol. 35-50-4, dated Bangalore, the 12th December 1950.

The following draft amendments which His Highness the Maharaja of Mysore proposes to make to the rules framed under Section 4 of the Mysore Explosives Act, II of 1888 and issued under Notification No. A.F. 1780—Geol. 81-42-3, dated the 25th October 1943, are hereby published as required by Section 15 of the Act for the information of the persons likely to be affected thereby and notice is hereby given that the said draft amendments will be taken into consideration on or after 15th January 1951 and that any suggestions or objections to the proposed amendments may be forwarded to the Secretary to the Government of Mysore, Local Self-Government Department, so as to reach him on or before the said date. Objections or suggestions received after the said date will not be considered :—

Amendments.

In the said Rules—

I. Rule 20 shall be renumbered as sub-rule (1) of that rule, and after sub-rule (1) as so renumbered, the following sub-rule shall be added, namely :—

"Where any explosive is permitted to be imported under sub-rule (1) a fee of Rupees twenty-five shall be charged".

II. In sub-rule (3) of rule 23, sub-rule (2) of rule 64 sub-rule (3) of rule 65 and sub-rule (2) of rule 66, for the words "one rupee" wherever they occur the words "two rupees" shall be substituted.

III. Under sub-rule (3) of rule 23 the following proviso shall be added :—

"Provided that should the Inspector of Mines and Explosives in Mysore issuing the certificate requires a fresh test of the explosive to be made a fee of Rs. 20 shall be charged for such test."

IV. In sub-rule (3) of rule 62, for the words "two rupees" the words "three rupees" shall be substituted.

V. In rule 69 and in sub-rule (2), rule 71 for the words "one rupee", the words "five rupees" shall be substituted.

VI. In sub-rule (2) of rule 70, for the figures "100" and "1,000" against items (*i*) and (*ii*), the figures "25" and "250" shall respectively be substituted.

In Schedule III annexed to the said Rules—

(*i*) In column 5 against Article No. 2 for the figures "2" the figure "5" shall be substituted.

(*ii*) For the entries in column 5 againt Article No. 3 the following entries shall be substituted, namely :—

"When the total quantity other than safety fuse does not exceed—

		Gun powder or mixed explosives.			*Fire works only.*		
		Rs.	a.	p.	Rs.	a.	p.
50 lbs.	...	7	8	0	5	0	0
100 lbs.	...	22	8	0	15	0	0
Exceeding 100 lbs.	...	45	0	0	30	0	0

(*iii*) In column 5 against Article No. 4 for the figure "3" the figure "5" shall be substituted.

(*iv*) For the entries in column 5 against Article No. 6, the following entries shall be substituted, namely :—

"Where the total quantity other than safety fuse does not exceed—

		Rs.
50 lbs.	...	4
100 lbs.	...	8
200 lbs.	...	12

(*v*) For the entries in column 5 against Article No. 7 the following entries shall be substituted, namely :—

"When the total quantity does not exceed—

		Possession. Rs.	*Possession or Sale* Rs.
100 lbs.	...	15	20
200 lbs.	...	20	30
500 lbs.	...	25	35
1,000 lbs.	...	30	40
10,000 lbs.	...	40	60
25,000 lbs.	...	60	80
50,000 lbs.	...	100	125
Over 50,000 lbs.	...	100*	125†

* For first 50,000 lbs. and Rs. 10 for every additional 10,000 lbs. subject to a maximum of Rs. 200.

† For first 50,000 lbs. and Rs. 12-8-0 for every additional 10,000 lbs. subject to a maximum of Rs. 250.

(*vi*) In column 5 against Article No. 8 for the figure "10" the figure "20" shall be substituted.

In schedule IV annexed to the said rules—

(*i*) In form F for the words and figure "Fee Rs. 2" the words and

In Schedule IV annexed to the said rules—

(*i*) In form F for the words and figure "Fee Rs. 2" the words and figure "Fee Rs. 5" shall be substituted.

(*ii*) In form I for the words and figure "Fee Rs. 3" the words and figure "Fee Rs. 5" shall be substituted.

(*iii*) In form M, for the words and figure "Fee Rs. 10" the words and figure "Fee Rs. 20" shall be substituted.

By Order of His Highness the Maharaja.

No. D. 6196—Geol. 33-50-5, dated Bangalore, the 12th December 1950.

The draft of the following amendments to the Carbide of Calcium Rules, 1942, which it is proposed to make in exercise of the powers conferred by Section 4 and sub-section (1) of Section 29 of the Mysore Petroleum Act, 1942 (Mysore Act No. VI of 1942) as applied to Carbide of Calcium by Notification No. A.F. 1013—Geol. 44-41-13, dated the 11th August 1942, is hereby published for the information of all persons likely to be affected thereby as required by Section 29 of the said Act.

Notice is hereby given that the draft amendments will be taken into consideration after the 15th January 1951.

Objections and suggestions, if any, to the said draft may be forwarded to the Secretary to Government, Local Self-Government Department for consideration, so as to reach him before the said date.

Objections or suggestions received after the said date will not be considered.

DRAFT AMENDMENTS.

(1) In sub-rule (3) of Rule 31, sub-rule (2) of rule 33, sub-rule (3) of Rule 34, sub-rule (3) of Rule 36 and sub-rule (2) of Rule 37 of the Carbide of Calcium Rules, 1942, *for the* words "One Rupee," the words "rupees two" *shall be substituted.*

2. For the existing entries in column 5 of Schedule I to the said rules, the following entries shall be substituted, namely :—

(*a*) when the quantity to be stored does not exceed 1,000 pounds.	.....Rs. 6
(*b*) when the quantity to be stored exceeds 1,000 pounds but does not exceed 5,000 pounds.	Rs. 6 for the first 1,000 pounds *plus* rupee one for every additional 1,000 pounds or part thereof.
(*c*) when the quantity to be stored exceeds 5,000 pounds but does not exceed 50,000 pounds.	Rs. 10 for the first 5,000 pounds *plus* rupees two for every additional 5,000 pounds or part thereof.
(*d*) when the quantity to be stored exceeds 50,000 pounds but does not exceed 75,000 pounds.	Rs. 30 for the first 50,000 pounds *plus* rupees four for every additional 10,000 pounds or part thereof.
(*e*) when the quantity to be stored exceeds 75,000 pounds.	Rs. 50 for the first 75,000 pounds *plus* Rs. 8 for every additional 20,000 pounds or part thereof subject to a maximum of Rs. 150.

By Order of His Highness the Maharaja,

L. MUNISWAMY,
Secretary to Government,
Local Self-Government Department.

No. W. 2049, dated Bangalore, the 13th December 1950.

In exercise of the powers conferred by sub-clause (1) of Clause 2 of the Mysore House Rent and Accommodation Control Order, 1948, and in supersession o Notification No. W. 1380, dated the 8th September 1950, His Highness the Maharaja of Mysore is pleased to confer on Sri N. Seshu Iyer, M.A., Assistant Commissioner, the powers of the 'Controller' in respect of all classes of cases under the said Order, except those under Clause 3 in respect of that part of the City of Bangalore which, prior to the 8th day of December 1949 was known as Bangalore City as constituted under the Mysore City Municipalities Act, 1933.

By Order of His Highness the Maharaja.

No. W. 2046, dated Bangalore, 13th December 1950.

In exercise of the powers conferred by sub-clause (1) of Clause 2 of the Mysore House Rent and Accommodation Control Order, 1948, and in supersession of Notification No. W. 229, dated the 31st August 1948, His Highness the Maharaja of Mysore is pleased to confer on Sri H. J. Veerappa, B.Sc., Assistant Commissioner, the powers of the 'Controller' in respect of all classes of cases under the said Order, except those under Clause 3 in respect of that part of the City of Bangalore which, prior to the 8th day of December 1949, was known as the Civil Station of Bangalore as constituted under the Bangalore Municipal Law, 1897.

By Order of His Highness the Maharaja,

No. L.S. 3386—L. W. 63-49-10, dated Bangalore, 20th December 1950.

The time limit fixed in the several Notifications mentioned below for sending objections or suggestions regarding the fixation of opening and closing hours of Shops and Establishments under the Mysore Shops and Establishments Act, 1948, which was extended up to 1st June 1950, in Notification No. L.S. 313—L.W. 63-48-8, dated 28th April 1950, is hereby further extended up to 31st December 1950:—

(1) No. L.S. 1999—L.W. 63-49-6, dated 10th December 1949.
(2) No. L.S. 2001—L.W. 63-49-3, dated 10th December 1949.
(3) No. L.S. 2003—L.W. 63-49-4, dated 10th December 1949.
(4) No. L.S. 2005—L.W. 63-49-5, dated 10th December 1949.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

No. C. 1162—Co. 23-50-4, Bangalore, dated 18th December 1950.

In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 3 of the Hoarding and Profiteering Prevention Act, 1948 (Mysore Act No. LX of 1948), His Highness the Maharaja of Mysore is pleased to make the following amendment in Notification No. C. 617—Co. 23-50-2, dated the 7th August 1950, fixing the maximum prices which may be charged by a dealer in respect of Infant and Invalid foods, which are distributed by Messrs. Parry & Co., and Messrs. Glaxo Laboratories (India), Ltd.

For items 2 and 3 mentioned under Distributor's name Parry & Co., the following items shall be substituted :—

			Rs. a. p.
2.	Gluco-Vita Glucose D 1 lb. tins	...	2 8 10 per tin.
	Do ½ lb. tins	...	0 14 9 per tin.
3.	Dextrosol 1 lb. tins	...	2 8 10 per tin.
	Do ½ lb. tins	...	0 14 9 per tin.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,
Secretary to Government,
Food and Agriculture Departments.

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PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION

No. L.D. 2569—Legis. 4-50-73, Bangalore, dated 6th December 1950.

Ordered that the following Notification Nos. S. R. O. 724 and 725, dated the 30th September 1950 of the Ministry of Communications amending the Indian Telegraph Rules 1932, published in the *Gazette of India*, Part II, Section 3, dated the 7th October 1950, be-republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMUNICATIONS

POSTS AND TELEGRAPHS

New Delhi, the 30th September 1950

S.R.O. 724.—In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government is pleased to

direct that the following further amendments shall be made in the Indian Telegraph Rules, 1932, namely :—

1. In rule 18—

(i) under the heading "(c) Stops and other signs" for the words and signs "Bar of division (/) or underline (—)" the words and signs "or Bars of division (/)" shall be substituted;

(ii) under the heading "(d) Special Instructions and Conventional Signs", the following entries shall be omitted, namely :—

"RAJ .. Telegrams sent by Indian State Officials on the business of the State (Rule 53)."

2. For rule 69 the following rule shall be substituted, namely :—

"69. MIXED TELEGRAM.—If an inland telegram contains both plain language words and secret language words, the plain language words shall be counted at the rate of 15 letters to a word and secret language words at the rate of 5 characters to a word."

3. Rule 84-A shall be omitted.

4. In rule 133—

(i) in the first sentence for the words "Code or Cypher" and "Cypher" the words "secret language" shall be substituted;

(ii) in the second sentence for the words "code or cypher" the words "secret language" shall be substituted.

5. In rule 217—

for the words "in code or in figure or letter cypher" the words "secret language" shall be substituted.

6. After rule 237-A, the following rule shall be inserted, namely :—

"237-A.—In a telegram the text of which contains words in plain language as well as words in secret language, the plain language words shall be counted at the rate of 15 letters to a word and secret language words at the rate of 5 characters to a word."

7. In rule 276—

the words "a fee of not more than Re. 0/11/6 shall be collected and retained by the telegraph office concerned." shall be omitted.

8. In rule 296—

the word, letter and signs "or—D—" shall be omitted.

[No. T-62/50.]

CORRIGENDUM

New Delhi, the 30th September 1950

S.R.O. 725.—Corrigendum to the Ministry of Communications (Posts and Telegraphs) notification, S.R.O. 186, dated the 27th June 1950, as published

in the *Gazette of India, Extraordinary*, dated the 27th June 1950, No. 18, Part II—Section 3 :—

On page 115, in item 13,—
for "30"
read "50".

On page 116, in item 20(a),—
after "Ordinary telegrams shall"
insert "not".

On page 119, in item 43, in the penultimate line of rule 219-A,—
for "htey".
read "they".

On page 121, in item 47, in line 7 of rule 236,—
for "or"
read "of".

On page 121, in item 49, at the end of clause (b)—
for "238"
read "236".

On page 125, in item 66, in rule 306(2), in line 2,—
for "TF"
read "LTF"

On page 125, in item 66, in rule 307,—
in line 1, *for* "LR" *read* "LT",
in line 2, *delete* "on" and
in line 3, *after the words* "second day" *insert* "*i.e.*, the day".

On page 126, in item 75,—
for "=D=",
read "=urgent=".

[No. T-62/50.]

A. V. PAI, Secy.

NOTIFICATION

No. L.D. 2570—Legis. 6-50-56, Bangalore, dated 6th December 1950.

Ordered that the following Notification No. S.R.O. 703, dated the 4th October 1950 of the Ministry of Food, under Section 4 of the Essential Supplies (Temporary Powers) Act 1946, published in the

Gazette of India, Part II, Section 3, dated the 5th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,
B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF FOOD

NOTIFICATION

New Delhi, the 4th October 1950

S.R.O. 703.—In exercise of the powers conferred by section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to direct that the power to make orders conferred on it by in sub-section (2) thereof shall, in relation to foodstuffs, including sugar, gur and pulses but excluding gram, edible oils, edible oil seeds and ghee, be exercisable also by the Governments of all Part B States except the Patiala and East Punjab States Union, subject to the conditions, that—

(a) before making any order relating to any matter specified in clauses (a), (b), (c), (d), (f) and (g) of the said sub-section (2) the State Governments shall obtain the concurrence of the Central Government;

(b) no order made in the exercise of the aforesaid powers shall have effect so as to prohibit or restrict the export, from any place in the State to any place outside India, of any articles or things.

[No. CG-603 (38)-XV.]

K. R. DAMLE, Joint Secy.

NOTIFICATION

No. L.D. 2571—Legis. 4-50-72, Bangalore, dated 6th December 1950.

Ordered that the following Notification No. S.R.O. 723, dated the 29th September 1950 of the Ministry of Communications, published in the *Gazette of India*, Part II, Section 3, dated the 7th

October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMUNICATIONS

New Delhi, the 29th September 1950

S.R.O. 723.—In exercise of the powers conferred by rule 160 of the Indian Aircraft Rules, 1937, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Communications No. 10-A/31-50, dated the 18th July 1950 namely :—

In clause (1) for the words "for the personal use of the Ruler" the words "by the Ruler for his personal use" shall be substituted.

[No. 10-A/31-50.]
P. K. ROY, Dy. Secy.

NOTIFICATION

No. L.D. 2572—Legis. 4-50-83, Bangalore, dated 6th December 1950.

Ordered that the following Notification No. S.R.O. 902, dated the 27th October 1950 of the Ministry of Rehabilitation—Displaced Persons (Verification of Claims) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 11th November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF REHABILITATION

New Delhi, the 27th October 1950

S.R.O. 902.—In exercise of the powers conferred by Section 16 of the Displaced Persons (Claims) Act, 1950 (XLIV of 1950), the Central Government is pleased to make the following rules, namely :—

CHAPTER I

PRELIMINARY

1. *Short title.*—These rules may be called the Displaced Persons (Verification of Claims) Rules, 1950.

2. *Definitions.*—In these rules—

(i) "the Act" means the Displaced Persons (Claims) Act, 1950 (XLIV of 1950);

(ii) "claimant" means a person whose claim has been registered under sub-section (2) of section 5 of the Act;

(iii) "form" means a form specified in the Schedule;

(iv) "legal practitioner" means an advocate, vakil or Attorney of any High Court, a pleader or a revenue agent and includes any person who has at any time practised before any Court;

(v) "legal representative" means a person who in law represents the estate of a deceased claimant or on whom such estate devolves on the death of the claimant;

(vi) "proceeding" means the hearing of a claim under the Act for the purpose of its verification and includes all steps taken under the Act or these rules in pursuance of such a claim;

(vii) "Revising authority" means the Chief Claims Commissioner and includes any officer to whom the functions of the Chief Claims Commissioner under sub-section (3) of section 6 of the Act are delegated;

(viii) "Schedule" means the Schedule annexed to these rules.

3. *Additional powers of Claims Officers.*—The Chief Claims Commissioner, the Joint or Deputy Chief Claims Commissioner and every Claims Commissioner and Claims Officer, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely :

(a) to order the substitution and continuation of a proceeding by the legal representatives of a claimant in the event of his death;

(b) to order, with the consent of the claimants concerned, consolidation of proceedings in two or more cases, where the evidence on behalf of the claimants may be similar and common questions of law and facts are involved;

(c) to correct any clerical or arithmetical mistake or error in any order or proceeding arising therein from an accidental slip or omission;

(d) to review an order on any of the following grounds, namely :—

(i) the discovery of new or important matter or evidence which after the exercise of due diligence was not within the knowledge of or could not be produced by, the claimant at the time when the claim was verified ; or

(ii) on account of some mistake or error apparent on the face of the record ; or

(iii) for any other sufficient reason ;

(e) to order deposit of postal and other charges for the summoning of witnesses within a time to be specified.

CHAPTER II

Procedure for Verification

4. *Notice to claimants.*—At least fifteen days before the date of hearing of a claim, the Claims Officer shall cause to be sent to the claimant a notice in Form A informing him about the date of hearing.

5. *Appearance before Claims Officer.*—Subject to the provisions of rule 19 a claimant may appear before a Claims Officer either in person or through an agent duly authorised by him in writing to appear on his behalf :

Provided that where the claimant is a minor or other person under a disability, he may appear through a guardian or a next friend.

6. Where a claimant after a notice under rule 4 has been duly served upon him, fails to appear either in person or through a duly authorised agent on the date of hearing, the Claims Officer shall determine the claim *ex parte* :

Provided that the Claims Officer may on application made to him within sixty days of the *ex parte* order re-open the case if he is satisfied that there was sufficient cause for non-appearance of the claimant on the appointed date.

7. *Witnesses and assessors.*—(1) A party to any proceeding, who wants any witnesses to be summoned shall file a list of witnesses with their complete addresses and shall also deposit a sum of money sufficient to cover the diet money and travelling expenses of the witnesses. A list in duplicate of documents which any witness is called upon to produce shall also be filed.

(2) Summons to witnesses shall issue in form 'B' and summons to assessors in form 'C' of the Schedule and all the provisions of order XVI of the Code of Civil Procedure, 1908, shall, so far as may be, apply to such summons.

(3) Witnesses and assessors who attend any proceeding shall be paid diet money and travelling allowances—

(a) in the case of witnesses in accordance with the scale prescribed in this behalf for civil suits in the locality where the proceeding is being conducted ;

(b) in the case of assessors, in accordance with the scale prescribed for assessors in a Sessions case by the High Court of the State where the proceeding is held.

8. *Persons abroad or in Armed Forces, etc.*—(1) A claimant serving in the Armed Forces or residing outside India may in lieu of appearing in a proceeding either personally or through an authorised agent make a statement on oath—

(a) in the case of a claimant serving in the Armed Forces, before the Commanding Officer of his Regiment ;

(b) in the case of a person residing in a country outside India, before the representative of the Government of India in that country or an officer nominated by such representative for the purpose.

(2) The Commanding Officer or the representative of India, or such nominated officer as the case may be, shall forward to the officer conducting the proceedings, the statements so recorded together with documents that may be produced by the claimants and the depositions of the claimants and the documents produced by them shall form a part of the record of the case, notwithstanding anything contained in rule 6.

9. A Claims Officer shall hold every proceeding under the Act in an open place to which the public may generally have access so far as the same can conveniently contain them :

Provided that the Claims Officer may if he thinks fit, order at any stage of a proceeding of any particular case, that the public generally or any particular person shall not have access to, or be, or remain in the room or building used by the Claims Officer.

CHAPTER III

Revision

10. *Definition.*—In this chapter, the expression "appropriate revising authority" means the revising authority having jurisdiction in the area where the claim or a part of a claim is verified.

11. *Petition for revision.*—(1) A claimant may within one month of the date of any order made by a Claims Officer make a petition for revision of that order to the appropriate revising authority.

(2) Every such petition for revision shall be accompanied by a copy of the order of the Claims Officer against which it has been filed and shall set forth concisely and under distinct heads the grounds of objection to such order without any argument or narrative.

(3) Every such petition shall be accompanied by a treasury receipt or a crossed Indian Postal Order payable to the Joint Chief Claims Commissioner for a sum of Rupee one ; provided that where the petitioner resides outside India, the petition may be accompanied by a receipt of the amount of fee issued by an officer authorised in this behalf by the representative of India in the country where the petitioner resides.

12. *Presentation.*—A petition for revision shall be presented either in person or through an agent duly authorised in writing or sent by registered post to the appropriate revising authority.

13. *Registration of Revision petition.*—Every revision petition made under rule 12 and every case in which a revising authority *suo motu* exercises the power of revision conferred by the proviso to sub-section (3) of section 6 of the Act, shall be registered in a register to be maintained for the purpose in Form D of the Schedule.

14. *Hearing of Revision Petition.*—(1) A revising authority after sending for the record of the case and after giving the petitioner an opportunity of being heard, may pass such order on the revision petition as it thinks fit.

(2) Where a Claims Officer has disposed of a claim on a preliminary point and the revising authority disagrees with the Claims Officer, the revising authority shall remand the case to the Claims Officer with the direction that the claim

be decided on its merits. Provided that where the Claims Officer who originally decided the case is not available, the revising authority may send the case to such other Claims Officer as it may deem fit.

(3) Where the order of the revising authority affects more than one claimants, the revising authority may vary the order of a Claims Officer in the case of all such claimants :

Provided that no order shall be varied to the prejudice of any claimant unless he is given an opportunity of being heard.

15. *Return of records.*—After a case has been decided, the revising authority shall return the record of the case to the Central Claims Office.

16. Subject to the provisions of this Chapter the provision of Chapter II shall, so far as may be, apply in relation to the hearing of revision petition as they apply in relation to the hearing of claims.

CHAPTER IV

Miscellaneous

17. *Service of notice or Order.*—(1) Every notice or order under these rules shall be served upon the claimant by registered post acknowledgment due at the last address supplied by the claimant.

(2) A notice or order shall be deemed to be duly served if the acknowledgment of the registered letter has been received or if the claimant has refused to accept such letter.

18. *Certain provisions of the Limitation Act to apply.*—The provisions of sections 5 and 12 of the Indian Limitation Act, 1908, shall so far as may be, apply to every proceeding in respect of which any period of limitation is prescribed under these rules.

19. No legal practitioner shall appear in any proceeding except with the premission of, and for the reasons to be recorded in writing by the officer conducting the proceeding.

20. All statements made in any proceeding shall be on oath.

21. *Return of original documents.*—A Claims Officer may on application made by a claimant return any original document filed by the claimant if the claimant supplies at his own expense a true copy of such document made by any officer under the direction of the Claims Officer.

22. (I) A fee of annas 8 shall be levied for supplying to a claimant a copy of the final order made by a Claims Officer.

(II) The fee for copies shall be paid in the form of India Postal Orders, crossed in favour of Joint Chief Claims Commissioner, Delhi and attached with the application for copies.

23. The Joint Chief Claims Commissioner may, from time to time, call for such returns and statements from Claims officers as he may deem fit.

24. In so far as these rules make no provision or make insufficient provision, the provisions of the Code of Civil Procedure, 1908 shall so far as may be, apply to all proceedings under these rules.

No. *By Registered Post/A.D.*

Notice to a person who has filed a claim under the Displaced Persons (Claims) Act, 1950 to appear and prosecute the claim.

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SCHEDULE

FORM 'A'

From

_____

(Name)

Claims Officer.

_____

Station

To

_____

(Name and Address of claimant)

_____

_____

Sir,

This is to inform you that your claim Reg. No. _____ Index No. registered at (Place) _____ on (date) _____ in respect of property (Description of property) _____ shall come up for verification and valuation before me at (address) _____ in (town) _____ on (date) _____.

Please arrange to be present in person or through an agent authorised in writing.

You are required to produce or cause to be produced all documents or evidence avilable on the said date and place.

If you wish to summon a witness, you may within two days of receipt of this notice make an application either in person or by post to my office giving a list of witnesses and lists in duplicate of documents that you require the witnesses to produce. The diet money and travelling expenses of these witnesses should be deposited in my office or remitted by Money Order.

Given under the hand and seal of my office this _____ the day of _____ 195 .

_____

Full Signature of Claims Officer.

Seal

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By Registered Post/A.D.

SUMMONS TO WITNESSES

SCHEDULE

FORM 'B'

From

_____

(Name)

Claims Officer.

To

_____

Name and address of witness.

_____

_____

Sir,

Whereas your attendance is required / you are required only to produce documents ——— by ——— Name of claimant ... in the matter of verification and valuation of claims, you are hereby required *appear before me and to bring with you / to produce or cause to be produced ——— the documents mentioned in the attached list on ——— (date) forenoon. You are required to appear at ——— (address) in ——— (town).

A sum of Rs. has been provisionally deposited by the claimant towards your subsistence allowance, travelling expenses and other charges. If you fail to comply with the order without lawful excuse, you will be subject to the consequences of non-attendance laid down in Rule 12 of the Order 16 of the Code of Civil Procedure, 1908.

Given under the hand and seal of my office this th day of 195 .

Claims Officer's signature.

Seal

* To be scored off, in case no document has been summoned from the witness.

By Registered Post/A.D. 81 S

SUMMONS TO ASSESSOR

SCHEDULE

FORM 'C'

From

Claims Officer.

Station

To

Reference claim Registration No. / Index No. Date of hearing

Sir,

For the purpose of assessing the correct value of the above claim filed by (Name of claimant) in respect of property situated in (full description of property) you are hereby required to attend before me at (location and adress) on (date) at (time).

If you fail to comply with this order without lawful excuse, you will be subject to the consequences of non-attendance laid down in rule 12 of Order XVI of the Code of Civil Procedure, 1908.

Given under the hand and seal of my office this th day of 195 .

Claims Officer's signature.

Seal

SCHEDULE

FORM D

Register of Revisions

Date when Petition received or notice issued	S. No.	Index No.	Name & address of petitioner	Name of Claims Officer who verified the claim	Date when file requisitioned from Central Office	Date when file received from Central Claims Office	Amount claimed by Petitioner					Date of hearing	Amount allowed in revision					Number and date of letter by which case returned to Central Claims Office	Remarks
							A	B	C	D	Total		A	B	C	D	Total		
1	2	3	4	5	6	7	8					9	10					11	12

[No. 2(6)/CCC/G.-50.]

C. G. SURI,

for Jt. Chief Claims Commissioner.

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NOTIFICATION

No. L.D. 2573—Legis. 4-50-82, Bangalore, dated 6th December 1950.

Ordered that the following Notification Nos. S.R.O. 900 and 901, dated the 3rd November 1950 of the Ministry of Rehabilitation amending the Displaced Persons (Registration of Claims) Rules, 1950, etc., published in the *Gazetted of India,* Part II, Section 3, dated the 11th November 1950, be republished in the *Mysore Gazette,* for general information.

By Order of
His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF REHABILITATION

OFFICE OF THE CHIEF CLAIMS COMMISSIONER

New Delhi, the 3rd November 1950

S.R.O. 900.—In exercise of the powers conferred by section 16 of the Displaced Persons (claims) Act, 1950 (XLIV of 1950), the Central Government is pleased to direct that the following amendment shall be made in the Displaced Persons (Registration of Claims) Rules, 1950 :—

In the proviso to sub-rule (i) of rule 3 of the said rules, after clause (ii) the following clause shall be inserted, namely :—

(iii) That a claim may be submitted by registered post to the Joint Chief Claims Commissioner after the period prescribed by or under this rule but so as to reach him not later than the 30th November, 1950 and the Joint Chief Claims Commissioner may, if the claim is in proper form, register it, if he is staisfied that the claimant had sufficient cause for not submitting the claim within the aforesaid period.

[No. I (1) /CCC/G.-50.]

S.R.O. 901.—This office Notification of even number dated the 31st October 1950 is hereby cancelled.

[No. 1 (1) /CCC/G-50.]

S. B. CAPOOR, Joint Chief Claims Commissioner and Joint Secy.

NOTIFICATION

No. L.D. 2574—Legis. 6-50-57, Bangalore, dated 6th December 1950.

Ordered that the following Notification No. S.R.O. 886, dated the 1st November 1950 of the Ministry of Agriculture amending the Sugar and Gur Control Order, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 11th November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF AGRICULTURE

New Delhi, the 1st November 1950

S.R.O. 886.—In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to direct that the following amendment shall be made in the Sugar and Gur Control Order, 1950, namely :—

In the said Order—

In sub-clause (c) of clause 2, for the words "Gur, Gul, Jaggery Palmyra jaggery, Shakkar and Rab" the words "Gur, Gul Jaggery, Shakkar and Rab" shall be substituted.

[No. SV-105 (2)/50-51]

N. T. MONE, Joint Secy.

NOTIFICATION

No. L.D. 2575—Legis. 4-50-77, Bangalore, dated 6th December 1950.

Ordered that the following Notification No. S.R.O. 791, dated the 17th October 1950 of the Ministry of Communications amending the Rules for the licensing of Wireless receiving apparatus, 1940, published in the *Gazette of India*, Part II, Section 3, dated the 17th

October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF COMMUNICATIONS

NOTIFICATION

POSTS AND TELEGRAPHS

New Delhi, the 17th October 1950

S.R.O. 791.—In exercise of the powers conferred by section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government is pleased to direct that the following further amendment shall be made in the 'Rules for the licensing of wireless receiving apparatus, 1940', namely:—

In the said Rules—

(a) After rule 1, the following shall be inserted, namely:—

"1A. These rules extend to the whole of India except the State of Hyderabad"; and

(b) In rule 2, the words 'in any part of India, other than the State of Hyderabad' shall be omitted.

[No. T-2/194/50]

K. V. VENKATACHALAM, Deputy Secy.

Printed by the Director of Printing, Stationery and Publications
at the Government Press, Bangalore.

NOTIFICATION.821

No. D. 6358—I. & C. Bangalore, dated 20th December 1950.

The following Notifications of the Government of India, Ministry of Industry and Supply, No. PC-11 (1)/50/1 and No. PC-11 (1)/50/2 dated 23rd November 1950, are reproduced for information.

By Order of His Highness the Maharaja.

R. J. Rego,
Secretary to Government,
Development Department.

GOVERNMENT OF INDIA.

MINISTRY OF INDUSTRY AND SUPPLY.

NOTIFICATION.

New Delhi, the 23rd November 1950.

No. PC-11 (1)/50/1.—In exercise of the powers conferred by clause (c) of section 13 of the Supply and Prices of Goods Ordidance, 1950 (XXVI of 1950), and of all other powers enabling it in this behalf, the Central Government is pleased to direct that tannery wool produced within the States of Madras and Mysore shall not be transported by rail, road, air or water to any destination other than Bangalore, Wallajah and Salem, except under a permit issued by the Director of Industries, Madras or the Director of Industries, Mysore, as the case may be.

NOTIFICATION.

New Delhi, the 23rd November 1950.

No PC-11 (1)/50/2.—In exercise of the powers conferred by section 3 of the Supply and Prices of Goods Ordinance, 1950 (XXVI of 1950), the Central Government is pleased to direct that the provisions of the said Ordinance shall apply to tannery wool (wool recovered from sheep skin in a tannery before the tanning operation).

NOTIFICATION. 877

No. L.D. 2901—L.A. 47-50-16, dated Bangalore, the 27th December 1950.

Ordered that the followfng Notification No. 67/50-Elec., dated the 19th December 1950, of the Election Commission, India, be published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

ELECTION COMMISSION INDIA.

New Delhi, dated the 19th December 1950.

NOTIFICATION.

No. 67-50—Elec. Whereas the election of Shri V. S. Narayan Rao as a member of the Mysore Legislative Assembly has been called in question by an election petition duly presented under the provisions of rule 94 of the Mysore Legislative Assembly Election Rules the Election Commission is pleased in pursuance of the provisions of sub-paragraph (1) of paragraph 5 of the Provisional State Legislatures (Casual Vacancies) Order, 1950, to appoint—

(1) Shri S. Venkataranga Iyengar, Retired High Court Judge,

(2) Shri K. C. Lingiah Gowder, District Judge, and

(3) Shri S. Kanakaratnaraj, District Judge,

as members of a tribunal for the trial of the said petition and further to appoint the said Shri Venkataranga Iyengar to be the President of the tribunal so constituted and Bangalore as the place where the trial of the petition shall be held.

P. S. SUBRAMANIAN, *Secy.*

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

PART IV

Section 2-B

NOTIFICATIONS, RULES AND ORDERS ISSUED UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. S.D. 6021, Bangalore, dated 20th December 1950.

In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (Central Act XXIV of 1946), read with the Government of India, Ministry of Food, Notification No. S.R.O. 703, dated the 4th October 1950, and with the concurrence of the Government of India, His Highness the Maharaja of Mysore is pleased to cancel with immediate effect Notification No. S.D. 4083—C. 77-49-2, dated 21st November 1949, prohibiting the export of chillies from any place in the State to any place outside the State.

By Order of His Highness the Maharaja,

No. C. 1179—Co. 2-48-16, Bangalore, dated 22nd December 1950.

In exercise of the powers conferred by sub-clause (b) of Clause 3 of the Cotton Textiles (Control) Order, 1948, His Highness the Maharaja of Mysore is pleased to appoint the Controller of Civil Supplies in Mysore, Bangalore, to perform the functions of the Controller under the said Order.

By Order of His Highness the Maharaja.

No. C. 1181—Co. 2-48-17, Bangalore, dated the 22nd December 1950.

In exercise of the powers conferred by Clause 36 of the Cotton Textiles (Control) Order, 1948, His Highness the Maharaja of Mysore is pleased to authorise the Controller of Civil Supplies in Mysore, Bangalore, to sanction prosecutions for the contravention of any of the provisions of the said Order.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,
Secretary to Government,
Food and Agriculture Departments.

No. L. 9807—C.M. 30-50-23, dated Bangalore, the 27th December 1950.

In exercise of the powers conferred by Section 68 of the City of Bangalore Municipal Corporation Act, 1949, (Mysore Act LXIX of 1949), His Highness the Maharaja of Mysore is pleased to make the following rules relating to the election of aldermen, namely :—

1. These rules may be called the City of Bangalore Municipal Corporation (Election of Aldermen) Rules, 1950.

2. A meeting convened for the purpose of election of aldermen under Sub-Section (1) of Section 65 of the Act shall be presided over by the Mayor, in his absence by the Deputy Mayor and in the absence of both the Mayor and the Deputy Mayor, by a Councillor chosen by the meeting to preside for the occasion :

Provided that the Mayor or the Deputy Mayor shall not preside over a meeting at which the name of the Mayor or the Deputy Mayor, as the case may be, is proposed for election as an alderman.

3. Every candidate for election as an alderman shall be proposed by a Councillor and seconded by another at the meeting held for the purpose. The proposer shall, when proposing the name of any candidate, deliver to the Chairman a declaration in writing, expressing the candidate's willingness to stand for election as an alderman to the general or reserved vacancy, as the case may be, signed by the candidate and by the proposer. The names of all candidates who have been proposed and seconded shall be read out by the Chairman.

4. (1) In the case of election to the general vacancies, if the number of candidates whose names are so read out is equal to the number of vacancies, the Chairman shall declare all such candidates duly elected.

(2) If the number of such candidates is less than the number of vacancies, the Chairman shall declare all such candidates duly elected and shall either call for fresh nominations or adjourn the election to fill up the remaining vacancy or vacancies to the next meeting of the Corporation.

5. (1) In the case of election to the reserved vacancy, if only one candidate is proposed for election, the Chairman shall declare such candidate as duly elected to the vacancy.

(2) If no candidate is duly proposed for election to the reserved vacancy, the Chairman shall either call for fresh nominations or adjourn the election to fill up the vacancy to the next meeting of the Corporation.

6. If the number of candidates proposed exceeds the number of vacancies, the votes of the councillors present at the meeting shall be taken by ballot. The Commissioner shall make adequate arrangements to secure the secrecy of the ballot.

7. Every councillor wishing to vote shall be supplied with a voting paper on which the names of all such candidates shall be typed or legibly written in the following form indicating therein the names of candidates standing for election to the general vacancies or the reserved vacancy as the case may be.

Name	*Vote.*
GENERAL VACANCIES.	
1.	
2.	
3.	
4.	
5.	
6.	
RESERVED VACANCY.	
1.	
2.	
3.	

Each councillor shall then proceed to the place set apart for the purpose and exercise his vote by placing a cross mark (X) in the voting paper against the name or names of the candidate or candidates for whom he wishes to vote. He shall then hold up the voting paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the Chairman. The ballot box shall be so constructed that the voting paper may be placed therein but not extracted therefrom without the box being opened. After the voting is over the Chairman shall then open the box and count the votes in the presence of two councillors who shall be nominated tellers by the Chairman.

8. The candidate who obtains the largest number of votes, or if there is more than one vacancy, as many of

the candidates at the top of the poll as there are vacancies to be filled, shall be declared to have been duly elected. If there be an equality of votes between any two or more candidates and the addition of one vote to any one or more of such candidates will entitle him or them to be declared duly elected, the Chairman shall decide by drawing lots in the presence of councillors, to which one or more of such candidates such additional vote shall be deemed to have been given.

9. Any voting paper which contains the signature or writing of any of the voting councillors or on which marks are placed against more candidates than there are vacancies to be filled, shall be invalid.

10. The names of candidates declared duly elected as aldermen to the general or reserved vacancies or vacancy, as the case may be, shall be forthwith reported by the Chairman to the State Government.

11. In the above rules, the word "Councillor" shall mean a person who on the 1st day of January 1951 will enter upon office as Councillor.

By Order of His Highness the Maharaja,

M. S. SWAMINATHAN,

Secretary to Government,

Local Self-Government Department.

Dated 27th December 1950.

No. L. 9805—C.M. 30-50-22. Whereas by Section 439 of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act LXIX of 1949), (hereinafter referred to as the said Act), the State Government is empowered by Order to make such provision as appears to them to be necessary or expedient for bringing the provisions of the said Act into effective operation and for removing difficulties arising in connection with the transition to the provisions of the said Act;

Now, THEREFORE, in exercise of the powers conferred by the said Section 439 of the said Act, His Highness the Maharaja of Mysore is pleased to make the following order, namely :—

1. (1) This Order may be called the Election of Aldermen (Removal of Difficulty) Order, 1950.

(2) It shall come into force at once.

2. Notwithstanding the absence of the Office of Aldermen in the Corporation constituted under Section 438 of the said Act, in the case of the first election of aldermen to the Corporation of the City of Bangalore, election shall be held under Sub-section (1) of Section 65 of the said Act as if the election were for filling up of five vacancies in the office of aldermen arising by efflux of time on the 31st day of December 1950.

By Order of His Highness the Maharaja,

M. S. SWAMINATHAN,

Secretary to Government,
Local Self-Government Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

Reg. No. M. 1175

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, SATURDAY, JULY 22, 1950.

PART IV

Section I-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATIONS.

No. L.D. 1162—L.A. 29-50-8, dated Bangalore, the 22nd July 1950.

WHEREAS a vacancy has arisen in the Bangalore District General Constituency of the Legislative Assembly of Mysore, consequent on the resignation of Dr. D. S. Ramachandra Rao of his membership of the said Assembly;

AND, WHEREAS, the Election Commission, India, have requested that action may be taken to fill the said vacancy;

NOW, THEREFORE, in pursuance of the provisions of Rule 34 of the Mysore Legislative Assembly Election Rules, His Highness the Maharaja of Mysore is pleased—

(*a*) to call upon the Bangalore District General Constituency to elect in accordance with the said rules, one member to fill the aforesaid vacancy; and

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(*b*) to appoint the following dates for the different stages of election:

1.	Last date for filing of nominations of candidates.	Saturday, 5th August 1950 (up to 3 P.M.)
2.	Date for the scrutiny of nominations	Monday, 7th August 1950.
3.	Last date for withdrawal of nominations.	Tuesday, 8th August 1950. (up to 3 P.M.)
4.	Date of final publication of list of candidates standing for election.	Wednesday, 9th August 1950.
5.	Date of Poll	Sunday, 20th August 1950.

By Order of His Highness the Maharaja,

No. L.D. 1164—L.A. 29-50-9, dated Bangalore, 22nd July 1950.

The Calendar of Events relating to bye-election to the Legislative Assembly of Mysore in the following constituency is hereby published for general information:—

Legislative Assembly.

Sl. No.	*Name of the constituency.*	*No. of seats.*
1	Bangalore District (General)	1

Calendar of Events.

The attention of the Deputy Commissioner, Bangalore District, is invited to the several events specified below and the dates fixed for the same and he is requested kindly to take necessary steps to carry out the programme and keep within the time limits prescribed for the several events.

Bye-election—1950.

1.	Last date for filing of nominations of candidates.	Saturday, 5th August 1950 (up to 3 P.M.)
2.	Date for the scrutiny of nominations.	Monday, 7th August 1950.
3.	Last date for withdrawal of nominations.	Tuesday, 8th August 1950 (up to 3 P.M.)
4.	Date of final publication of list of candidates standing for election.	Wednesday, 9th August 1950.
5.	Date of Poll ...	Sunday, 20th August 1950.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

Reg. No. M. 1175.

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, WEDNESDAY, AUGUST 2, 1950

NOTIFICATION.

No. L.D. 1246—L.A. 35-50-1, dated Bangalore, the 2nd August 1950.

In exercise of the powers conferred by clause (2) of Article 174 of the Constitution of India, I, Jaya Chamaraja Wadiyar, Maharaja of Mysore, do hereby summon the State Legislative Assembly to meet at 12 Noon on Monday the 28th August 1950, at Sir K. P. Puttanna Chetty Town Hall, Bangalore.

JAYA CHAMARAJA WADIYAR,
Maharaja of Mysore.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.

Reg. No. M. 1175.

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

EXTRAORDINARY

BANGALORE, FRIDAY, AUGUST 25, 1950.

PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L.D. 1673—Legis. 2-50-30, dated Bangalore, 23rd August 1950.

Ordered that the following Essential Supplies (Temporary Powers) Amendment Act, 1950, (LII of 1950), published in the *Gazette of India*, Part II, Section 1, dated the 16th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

MINISTRY OF LAW.

Act No. LII of 1950.

(Received Assent on 16th August 1950).

THE ESSENTIAL SUPPLIES (TEMPORARY POWERS) AMENDMENT ACT, 1950.

AN

ACT

further to amend the Essential Supplies (Temporary Powers) Act, 1946.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Essential Supplies (Temporary Powers) Amendment Act, 1950.

2. *Omission of preamble, Act XXIV of 1946.*—The preamble to the Essential Supplies (Temporary Powers) Act, 1946 (hereinafter referred to as the said Act), shall be omitted.

3. *Amendment of section 1, Act XXIV of 1946.*—In section 1 of the said Act,—

(*a*) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) It extends to the whole of India except the State of Jammu and Kashmir, but shall come into force in a Part B State to which this Act extends only on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different Part B States";

(*b*) in sub-section (3), for the words and figures "first day of April, 1951", the words and figures "thirty-first day of December, 1952" shall be substituted.

4. *Amendment of section 2, Act XXIV of 1946.*—In section 2 of the said Act, —

(*a*) after item (*i*) of clause (*a*), the following item shall be inserted, namely :—

"(*ia*) cattle fodder";

(*b*) after clause (*c*), the following clause shall be inserted, namely :—

'(*cc*) "cattle fodder" includes oil-cakes and other concentrates;'.

5. *Insertion of new section 2A in Act XXIV of 1946.*—After section 2 of the said Act, the following section shall be inserted, namely :—

"2A. *Rule of construction respecting enactments not extending to Part B States.*—Any reference to the Indian Penal Code (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898), or the Indian Evidence Act, 1872 (I of 1872), shall, in relation to any Part B State to which this Act applies, be construed as a reference to the corresponding enactment in force in that State."

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6. *Amendment of section 3, Act XXIV of 1946.*—For sub-section (*3*) of Section 3 of the said Act, the following sub-section shall be substituted, namely :—

"(*3*) An order made under sub-section (*1*) may confer powers and impose duties upon the Central Government or the State Government or officers and authorities of the Central or State Government and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties."

7. *Substitution of new section for section 7, Act XXIV of 1946.*—For section 7 of the said Act, the following section shall be substituted, namely :—

"7. *Penalties.—(1)* If any person contravenes any order under section 3 relating to cotton textiles, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine ; and any property in respect of which the order has been contravened or such part thereof as to the Court may deem fit shall be forfeited to the Government.

(2) If any person contravenes any order under section 3 relating to foodstuffs,—

(*a*) he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine, unless for reasons to be recorded the court is of opinion that a sentence of fine only will meet the ends of justice ; and

(*b*) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government, unless for reasons to be recorded the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property :

Provided that where the contravention is of an order prescribing the maximum quantity of any foodgrain that may lawfully be possessed by any person or class of persons, and the person contravening the order is found to have been in possession of foodgrain exceeding twice the maximum quantity so prescribed, the court shall—

(*a*) sentence him to imprisonment for a term which may extend to seven years and to a fine not less than twenty times the value of the foodgrain found in his possession, and

(*b*) direct that the whole of such foodgrain in excess of the prescribed maximum quantity shall be forfeited to the Government.

Explanation :—A person in possession of foodgrain which does not exceed by more than five maunds the maximum quantity so prescribed shall not be deemed to be guilty of an offence punishable under the proviso to this sub-section.

(3) If any person contravenes any order under section 3 relating to any essential commodity other than cotton textiles and food stuffs, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and if the order so provides, any property in respect of which the court is satisfied that the order has been contravened may be forfeited to the Government.

(4) If any person to whom a direction is given under sub-section (*4*) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

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8. *Amendment of section 7A, Act XXIV of 1946.*—In section 7A of the said Act, the words, brackets and figure "sub-section (*1*) of" shall be omitted and for the words "said sub-section", the words "said section" shall be substituted.

9. *Insertion of new sections 13A and 13B in Act XXIV of 1946.*—After section 13 of the said Act, the following sections shall be inserted, namely :—

"13A. *Special provisions regarding bail.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no person accused or convicted of a contravention of any order under section 3 relating to foodgrains which is punishable under the proviso to sub-section (*2*) of section 7 shall, if in custody, be released on bail or on his own bond unless—

(*a*) the prosecution has been given an opportunity to oppose the application for such release, and

(*b*) where the prosecution opposes the application, it appears to the court that there are reasonable grounds for believing that he is not guilty of such contravention.

13B. *Cases to be disposed of expeditiously.*—Where any offence is not being tried in a summary way under section 12 of this Act,—

(*a*) with reference to sub-section (*1*) of section 256 of the Code of Criminal Procedure, 1898 (Act V of 1898), the next hearing of the case shall be fixed on the day following the one on which the charge is framed, unless the Magistrate, for reasons to be recorded in writing, adjourns the case to any other day, but not later than four days, and

(*b*) the hearing of the case shall be continued from day to day unless the court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded."

10. *Amendment of section 17, Act XXIV of 1946.*—After sub-section (*3*) of section 17 of the said Act, the following sub-section shall be inserted, namely :—

"(*4*) If immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law which corresponds to this Act, such corresponding law shall on that day stand repealed in so far as it relates to any of the essential commodities governed by this Act :

Provided that any order made and in force immediately before that day in the said State shall continue in force and be deemed to be an order made under this Act, and all appointments made, licences or permits granted, and directions issued, under any such order and in force immediately before that day shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act."

K. V. K. SUNDARAM,
Secy.

NOTIFICATION. 835

No. L.D. 1693—Legis. 6-50-34, dated Bangalore, 24th August 1950.

Ordered that the following Notifications No. S.R.O. 391, 393 and 394, dated 17th August 1950, of the Ministry of Food under the Essential Supplies (Temporary Powers) Act, 1946 published in the *Gazette of India*, Part II, Section 3, dated the 17th August 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

MINISTRY OF FOOD.

New Delhi, the 17th August 1950.

S. R. O. 391.—In exercise of the powers conferred by sub-section (2) of section 1 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to appoint the 17th day of August 1950 as the date on which the said Act shall come into force in all the Part B States to which it extends.

[CG-603 (38)-XIV]

S. R. O. 393.—In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to direct that no order made or deemed to be made under the said Act or under any corresponding law in force in a Part B State shall have effect so as to prohibit or restrict the movement of gram from any place in a State to any other place within or outside the State, or so as to regulate or control the price, production or distribution thereof in any manner whatsoever.

[CG-603 (38)-XVI]

836

S, R. O. 394.—In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to fix with effect from the 17th August 1950, the price specified in column 2 of the Schedule hereto annexed as the maximum price at which gram may be bought or sold in the State specified in the corresponding entry in column 1 of the said Schedule.

SCHEDULE.

Name of the State	*Maximum price per maund of 82-2/7 lbs.*
1	*2*
	Rs.
Punjab	13
Patiala and East Punjab States Union	13
Himachal Pradesh	13
Bilaspur	13
Uttar Pradesh	13
Rajasthan	13
Bihar	13
Delhi	13
Ajmer	13
Madhya Pradesh	13
Vindhya Pradesh	13
Madhya Bharat	13
Bhopal	13
Hyderabad	13
Assam	16
Tripura	16
Manipur	16
West Bengal	16
Saurashtra	16
Kutch	16
Bombay	16
Travancore-Cochin	16
Mysore	16
Coorg	16
Madras	16
Orissa	16

[CG-603 (48)/50]

K. R. DAMLE, *Joint Secy.*

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BANGALORE, FRIDAY, AUGUST 25, 1950

PART IV

Section 1-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATIONS.

No. L.D. 1700—L.A. 43-50-4, dated Bangalore, 25th August 1950.

In pursuance of the provisions of sub-rule (2) of Rule 83 of the Mysore Legislative Assembly Election Rules, it is hereby notified that Sri V. S. Narayana Rao, Indian Press, Balepet, Bangalore City, has been elected as a Member of the Legislative Assembly of Mysore from the Bangalore City (General) Constituency.

By Order of His Highness the Maharaja.

No. L.D. 1702—L.A. 43-50-6, dated Bangalore, 25th August 1950.

In pursuance of the provisions of sub-rule (2) of Rule 83 of the Mysore Legislative Assembly Election Rules, it is hereby notified that Sri S. Ranga Rao, Pleader, Chitaldrug, has been declared elected as a Member of the Legislative Assembly of Mysore for the Chitaldrug District (General) Constituency.

By Order of His Highness the Maharaja.

No. L.D. 1704—L.A. 43-50-8, dated Bangalore, 25th August 1950.

In pursuance of the provisions of sub-rule (2) of Rule 83 of the Mysore Legislative Assembly Election Rules, it is hereby notified that Sri Channabyre Gowda, Bendiganahalli, Sulibele Post, Hoskote Taluk (Bangalore District), has been elected as a Member of the Legislative Assembly of Mysore for the Bangalore District (General) Constituency.

By Order of His Highness the Maharaja.

No. L.D. 1706—L.A. 43-50-10, dated Bangalore, 25th August 1950.

In pursuance of the provisions of sub-rule (2) of Rule 83 of the Mysore Legislative Assembly Election Rules, it is hereby notified that Sri Subbaraya Setty, Pathapalya, Bagepalli Taluk (Kolar District), has been elected as a Member of the Legislative Assembly of Mysore for the Kolar District (General) Constituency.

By Order of His Highness the Maharaja.

No. L.D. 1708—L.A. 43-50-12, dated Bangalore, 25th August 1950.

In pursuance of the provisions of sub-rule (2) of Rule 83 of the Mysore Legislative Assembly Election Rules, it is hereby notified that Sri H. Siddananjappa, B.A., LL.B., Advocate, Hassan, has been elected as a Member of the Legislative Assembly of Mysore for the Hassan District (General) Constituency.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

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BANGALORE, THURSDAY, AUGUST 31, 1950

PART IV

Section 2-A.

BILLS, SELECT COMMITTEE REPORTS, IF ANY, THEREON AND ACTS AND ORDINANCES OF MYSORE.

NOTIFICATION.

No. 2267—L.A., dated Bangalore, 31st August 1950.

Under Standing Order 36 of the Legislative Assembly Standing Orders, the following report of the Select Committee on the Bangalore Survey Bill is published for general information.

G. S. VENKATARAMANA IYER,
Secretary,
Mysore Legislature.

REPORT OF THE SELECT COMMITTEE ON THE BANGALORE SURVEY BILL.

We the Members of the Select Committee to which the Bangalore Survey Bill has been referred have considered the several clauses of the Bill and have the honour to submit this our report.

1. This Bill is intended to introduce survey in the City of Bangalore. The Superintendent of Survey has to prepare a map and a register of all lands which have been surveyed under this Bill. To every piece of land separately shown on the map and entered on the register, an indicative number has to be assigned and the name of the person appearing to be the holder thereof at the time of the survey is required to be entered in the register. Nothing contained in the map or register is to affect the

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rights of any person. The holder of any land surveyed under this measure has to pay one half of the survey fee. The map and the register may be revised from time to time without prejudice to rights of persons, but no person shall be required to give notice of the acquisition of any interest in land. No person shall for the purposes of this measure be compelled to produce his title deeds to any land or to disclose their contents.

2. This Bill is modelled on the lines of the Bombay City Survey Act, 1915, but whereas the survey under the Bombay Act is taken into account in the levy of land revenue under the Bombay City Land Revenue Act, 1876, there is no similar provision in the Bill. Secondly it is understood that though the property register maintained in Bombay is not a register of titles, considerable value is attached to the entries in the register.

3. We feel that for the survey to be useful, it is inevitable that titles should be looked into. Considerable mischief is likely to result from a survey which recognises and registers present holders without reference to their titles. In Madras titles are examined, disputes are settled with the usual rights of appeal and the record of survey subject to modification by decrees of court, is conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded.

4. If the holder of a land should be made to pay for the cost of survey, he should derive some benefit from it and unless the register will be at least *prima facie* if not conclusive evidence of his title, the survey would be of little benefit.

5. We therefore think that the purposes underlying the Bill would be better served if this is not proceeded with further, but Government permitted to bring in another measure.

6. We therefore report the Bill back to the House without any amendments and recommend that the House may permit the Government to withdraw the Bill to enable them to bring forward a more comprehensive measure.

R. CHENNIGARAMIAH.
H. B. GUNDAPPA GOWDA.
MAHOMED HANEIF.
W. H. HANUMANTHAPPA.
D. H. CHANDRASEKHARAIYA.
G. VEERAPPA.
K. PUTTASWAMY.

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BANGALORE, MONDAY, SEPTEMBER 4, 1950

NOTIFICATION.

No. L.D. 1793—L.A. 2-50-2, dated Bangalore, the 4th September 1950.

In pursuance of sub-clause (*b*) of Clause (2) of Article 174 of the Constitution of India, I, Jaya Chamaraja Wadiyar, Maharaja of Mysore, do hereby prorogue the Session of the Mysore Legislative Assembly on the conclusion of its business on Monday the 4th September 1950.

JAYA CHAMARAJA WADIYAR,
Maharaja of Mysore.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

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BANGALORE, WEDNESDAY, DECEMBER 6, 1950.

NOTIFICATION.

No. 12368—C.B. 308-50-1, dated Bangalore, the 6th December 1950.

I, Jaya Chamaraja Wadiyar, Maharaja of Mysore, do hereby accept on the advice of the Honourable Chief Minister, the resignation of the Honourable Shri T. Siddalingaiya, Minister for Education and Public Health, with effect from the afternoon of the 6th December 1950.

JAYA CHAMARAJA WADIYAR,
Maharaja of Mysore.

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BANGALORE, FRIDAY, DECEMBER 8, 1950.

PART IV

Section I-C

NOTIFICATIONS, RULES, ORDERS, ETC., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L. D. 2672—Legis. 6-50-62, dated Bangalore, the 8th December 1950.

Ordered that the following Notification No. 83/50—Elec. II, dated the 6th December 1950, under the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, be re-published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.

ELECTION COMMISSION, INDIA.

NOTIFICATION.

Dated, New Delhi, the 6th December 1950.

No. 83—50—Elec. II.—In exercise of the powers conferred by sub-rule (3) of rule 10 of the Representation of the People (Preparation of Electoral Rolls) Rules,

1950, the Election Commission hereby designates every officer holding the office of Amildar of a Taluk in the State of Mysore to be the person to whom a claim or objection under sub-rule (1) of the said rule in respect of the electoral roll for any electoral unit comprised within the area under his jurisdiction may be presented.

P. S. SUBRAMANIAN,
Secretary.

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The Mysore Gazette

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BANGALORE, MONDAY, DECEMBER 11, 1950.

PART IV

Section I-A

BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L. D. 2685—Legis. 3-50-10, dated Bangalore, 8th December 1950.

Ordered that the accompanying Bills Nos. 83, 84, 85 and 86 of 1950, namely, The Part B States (Laws) Bill, 1950, The President's Pension Bill, 1950, The Representation of the People (Amendment) Bill, 1950, and The Indian Tariff (Fourth Amendment) Bill, 1950, respectively, published in the *Gazette of India*, Part II, Section II, dated the 25th November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 17th November 1950 :—

BILL NO. 83 OF 1950.

A Bill to provide for the extension of certain laws to Part B States.

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(*1*) This Act may be called the Part B States (Laws) Act, 1950.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definition.*—In this Act, " appointed day " means the date on which this Act comes into force.

3. *Extension and amendment of certain Acts and Ordinances.*—The Acts and Ordinances specified in the Schedule shall be amended in the manner and to the extent therein specified, and the territorial extent of each of the said Acts and Ordinances shall, as from the appointed day and in so far as any of the said Acts or Ordinances or any of the provisions contained therein relates to matters with respect to which Parliament has power to make laws, be as stated in the extent clause thereof as so amended.

4. *Construction of references to laws not in force in Part B States.*—Any reference in any Act or Ordinance specified in the Schedule to a law which is not in force in a Part B State shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

5. *Construction of references to authorities where new authorities have been constituted.*—Any reference, by whatever form of words, in any law for the time being in force in a Part B State to any authority competent at the date of the passing of that law to exercise any powers or discharge any functions in that State shall, where a corresponding new authority has been constituted by or under any Act or Ordinance now extended to that State, have effect as if it were a reference to that new authority.

6. *Repeals and savings.*—If immediately before the appointed day, there is in force in any Part B State any law corresponding to any of the Acts or Ordinances now extended to that State, that law shall, save as otherwise expressly provided in the Act, stand repealed :

Provided that the repeal shall not affect—

(*a*) the previous operation of any law so repealed or anything duly done or suffered thereunder, or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed :

Provided further that, subject to the preceding proviso, anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, form, bye-law or scheme framed, certificate obtained, patent, permit or licence granted or registration effected) under any such law shall be deemed to have been done or taken under the corresponding provision of the Act or Ordinance as now extended to that State, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the said Act or Ordinance.

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7. *Power to remove difficulties.*—(*1*) If any difficulty arises in giving effect in any Part B State to the provisions of any Act or Ordinance now extended to that State, the Central Government may, by order notified in the Official Gazette, make such provisions or give such directions as appear to it to be necessary for the removal of the difficulty.

(*2*) In particular, and without prejudice to the generality of the foregoing power, any such notified order may—

(*a*) specify the corresponding authorities within the meaning of section 5;

(*b*) provide for the transfer of any matter pending before any court, tribunal or other authority, immediately before the appointed day, to any corresponding court, tribunal or other authority for disposal.

THE SCHEDULE

(*See* section 3)

ACTS

The Indian Fatal Accidents Act, 1855
(XIII of 1855)

Renumber section 1 as section 1A and before section 1A, as so renumbered, insert the following, namely :—

"1. *Short title and extent.*—(1) This Act may be called the Fatal Accidents Act, 1855.

(2) It extends to the whole of India except the State of Jammu and Kashmir."

The Indian Penal Code

(Act XLV of 1860)

Throughout the Code, unless otherwise expressly provided, for "the States" substitute "India".

Preamble.—For "the whole of India except Part B States" substitute "India".

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 17.—Omit "Part A".

For *section 18*, substitute :—

"18. *India.*—"India" means the territory of India excluding the State of Jammu and Kashmir".

Section 75.—Omit "or" at the end of clause (a) and omit clause (b).

Section 124.—For "Governor" wherever it occurs substitute "Governor or Rajpramukh".

Section 131.—In the *Explanation*, for "the Indian Army Act, 1911" and "the Indian Air Force Act, 1932" substitute "the Army Act, 1950" and "the Air Force Act, 1950", respectively.

Section 139.—For "the Indian Army Act, 1911" and "the Indian Air Force Act, 1932" substitute "the Army Act, 1950" and "the Air Force Act, 1950", respectively.

Section 216.—Omit "or under the Fugitive Offenders Act, 1881".

Section 294A.—For "a lottery organized by the Central Government or the Government of a Part A State or a Part B State" substitute "a State lottery".

Section 366B.—After "any country outside India" insert "or from the State of Jammu and Kashmir" and omit the words beginning with "and whoever with such intent or knowledge" and ending with "or by another person".

The Press and Registration of Books Act, 1867

(XXV of 1867)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Long title and preamble.—For "the whole of India except Part B States" substitute "India".

Section 1.—(1) After the definition of "editor", insert :—

'"India" means the territory of India excluding the State of Jammu and Kashmir'.

(2) Omit the definition of "States".

The Indian Divorce Act, 1869

(IV of 1869)

Long title.—Omit "in India".

Section 2.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—(1) In item (a) of clause (1), for "Part A State" substitute "Part A State or Part B State".

(2) In item (b), for "Ajmer" substitute "Ajmer and Vindhya Pradesh".

(3) After item (f), insert the following, namely :—

"(ff) in relation to Manipur and Tripura, the High Court of Assam".

Section 17A.—For "The State Government of any State within which any High Court established by Letters Patent exercises jurisdiction" substitute "The Government of the State within which any High Court exercises jurisdiction" and omit the second paragraph.

The Indian Evidence Act, 1872 849

(I of 1872)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—For the definitions of "State" and "States" substitute:—

'"India" means the territory of India excluding the State of Jammu and Kashmir'.

Section 37.—For "an Act of the Legislature of a Part A State or a Part C State" substitute "a State Act".

Section 79.—For "in a Part B State" substitute "in the State of Jammu and Kashmir".

Section 86.—(1) In the first paragraph—

(a) omit "a Part B State or of";

(b) for "such Part B State or country" substitute "such country";

(c) for "that State or country" substitute "that country".

(2) In the second paragraph, omit "a Part B State or" and for "in and for that Part B State or country" substitute "in and for the country".

The Special Marriage Act, 1872

(III of 1872)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

The Indian Contract Act, 1872

(IX of 1872)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 10.—For "Part A States and Part C States" substitute "India".

The Indian Christian Marriage Act, 1872

(XV of 1872)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the States of Travancore-Cochin, Manipur and Jammu and Kashmir".

For the definition of "India" substitute:—

'"India" means the territory comprised in the States to which this Act extends'.

Section 5.—For "Part A States and Part C States" substitute "India".

Section 27.—For "a Part A State or a Part C State" substitute "India".

The Government Savings Banks Act, 1873

(V of 1873)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

After section 1, insert the following as section 2 :—

"2. *Act not to apply to deposits in Anchal Savings Bank.*—This Act shall not apply to any deposits made in the Anchal Savings Bank of the State of Travancore-Cochin, and, notwithstanding anything contained in this Act, any law in force in the said State immediately before the commencement of the Part B States (Laws) Act, 1950, relating to such deposits, shall continue to apply thereto as if that law had not been repealed."

The Indian Oaths Act, 1873

(X of 1873)

Section 1.—Omit "except Part B States".

Section 4.—In clause (2) of the proviso, omit "in Part A States and Part C States".

The Foreign Recruiting Act, 1874

(IV of 1874)

Long title, preamble and section 3.—For "Part A States and Part C States" substitute "India".

Section 1.—Omit "except Part B States".

The Indian Majority Act, 1875

(IX of 1875)

Preamble and section 3.—For "Part A States and Part C States" substitute "India".

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 4.—In *Illustrations* (a) and (b), for "a domicile in a Part A State or a Part C State" substitute "an Indian domicile", and in all the *Illustrations* for "a Part A State or a Part C State" substitute "India".

The Indian Law Reports Act, 1875

(XVIII of 1875)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—For "decided on or after the said day by any High Court for a Part A State" substitute "decided by any High Court for a Part A State or a Part B State".

The Specific Relief Act, 1877

(I of 1877)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

The Indian Arms Act, 1878

(XI of 1878)

Section 1.—Omit "except Part B States".

Section 4.—In the definition of "military stores", for "the States" substitute "India" and omit the definition of "States".

Sections 6, 10, 27 and 29.—For "the States" substitute "India".

Section 11.—For "the States", where they first occur, substitute "India" and omit "or between the States and any other part of India".

Section 18.—For "States" substitute "India".

The Legal Practitioners Act, 1879

(XVIII of 1879)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Sections 4 and 5.—For "Part A States and Part C States" substitute "the territories to which this Act extends."

The Kazis Act, 1880

(XII of 1880)

Section 1.—For "But the Government of any other Part A State or the Government of Part C State" substitute "But the Government of any other State".

The Negotiable Instruments Act, 1881

(XXVI of 1881)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—For the definitions of "State" and "States", substitute :—

'"India" means the territory of India excluding the State of Jammu and Kashmir'.

Sections 20 136 and 137.—For "the States" substitute "India".

Section 75B.—In the *Explanation*, for "the States" and "any of the States" substitute "India".

Sections 134 and 135.—In the *Illustrations*, for "the States" substitute "India".

Section 137.—For "Part B State" substitute "the State of Jammu and Kashmir".

The Indian Trusts Act, 1882

(II of 1882)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section *20.*—(1) In cluase (d), for "Act of the Legislature of a Part A State" substitute "State Act".

(2) In clause (e), for "a Part A State or a Part C State" substitute "any part of the territories to which this Act extends".

The Transfer of Property Act, 1882

(IV of 1882)

Section 1.—In the fourth paragraph, for "Bombay, Punjab or Delhi" substitute "the said States".

Section 3.—In the definition of "registered", for "a Part A State or a Part C State" substitute "any State to which this Act extends".

Section 52.—For "within the limits of Part A States and Part C States" substitute "within the limits of India excluding the State of Jammu and Kashmir".

The Powers-of-Attorney Act, 1882

(VII of 1882)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

The Indian Explosives Act, 1884

(IV of 1884)

Section 1.—In sub-section (2), omit "except Part B States".

Sections 4 and 5.—For "Part A States and Part C States" substitute "India".

The Indian Telegraph Act, 1885

(XIII of 1885)

Section 1.—Omit "except the State of Hyderabad".

Section 3.—Omit clause (8).

Omit section 35.

The Police Act, 1888

(III of 1888)

Section 1.—For sub-section (2), substitute :—

"(2) It extends to the whole of India, except the State of Jammu and Kashmir, and to the extent to which its provisions relate to the extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State, it extends also to the State of Jammu and Kashmir."

Omit section 1A.

The Indian Merchandise Marks Act, 1889

(IV of 1889)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—For clause (6), substitute :—

'(6) "India" means the territory of India, excluding the State of Jammu and Kashmir.'

The Charitable Endowments Act, 1890

(VI of 1890)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Guardians and Wards Act, 1890

(VIII of 1890)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—For "Part A States and Part C States", where they first occur, substitute "any State to which this Act extends" and omit "established in Part A States and Part C States".

Section 4.—Omit clause (7).

Omit section 5.

Section 6.—Omit "who is not an European British subject".

Section 11.—For "a Part A State or a Part C State" substitute "any State to which this Act extends".

Section 15.—Omit sub-sections (2) and (3).

Section 17.—Omit sub-section (4).

Section 19.—In clause (b) omit "subject to the provisions of this Act with respect to European British subjects".

The Indian Railways Act, 1890

(IX of 1890)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

Section 47.—In sub-section (1), for "any State Government or the Government of any Part B State" substitute "or a State Government".

Section 59.—In sub-section (5), for "the Indian Territorial Force or of the Auxiliary Force, India" substitute "the Territorial Army or of the National Cadet Corps".

Omit section 144.

The Bankers Books Evidence Act, 1891

(XVIII of 1891)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Partition Act, 1893

(IV of 1893)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Indian Tolls (Army and Air Force) Act, 1901

(II of 1901)

Section 1.—In sub-section (2), omit "except Part B States".

Section 2.—(1) For clause (d), substitute :—

'(d) the expression "the regular forces" means "the regular Army" as defined in clause (xxi) of section 3 of the Army Act, 1950 (XLVI of 1950), and includes the "Air Force" as defined in clause (iv) of section 4 of the Air Force Act, 1950 (XLV of 1950) ;'.

(2) In clause (f), for "the Auxiliary Force (India) or the Indian Territorial Force" substitute "the Territorial Army or the National Cadet Corps".

(3) In clause (g), for "Indian Regular Reserve of Officers" substitute "Regular Reserve of Officers".

Section 3.—(1) In clause (b), for "the Auxiliary Force (India) or of the Indian Territorial Force" substitute "the Territorial Army or of the National Cadet Corps".

(2) For clause (d) (ii), substitute :—

"(ii) the Territorial Army or the National Cadet Corps".

(3) For "a Part A State or a Part C State" substitute "India".

The Ancient Monuments Preservation Act, 1904

(VII of 1904)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 17.—For "the territories for the time being comprised within Part A States and Part C States" substitute "the territories to which this Act extends".

The Indian Coinage Act, 1906

(III of 1906)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 23.—For "the States" substitute "the territories to which this Act extends".

After section 23, insert the following, namely:—

"24. *Saving of Hyderabad and Travancore-Cochin coins.*—The coins of such description as, at the date of the commencement of the Part B States (Laws) Act, 1950, were in circulation as legal tender in the State of Hyderabad or the State of Travancore-Cochin, shall continue to be legal tender in the relevant State to the like extent and subject to the same conditions as immediately before such commencement for such period, not exceeding two years from the commencement of the said Act, as the Central Government may, by notification in the Official Gazette, determine."

The Explosive Substances Act, 1908

(VI of 1908)

Section 1.—In sub-section (2), omit "except Part B States" and for "wherever they may be" substitute "outside India".

Section 4.—For "a Part A or a Part C State" and "any such State" substitute "India".

The Indian Limitation Act, 1908

(IX of 1908)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—(1) In clause (6), for "any Part B State" substitute "the State of Jammu and Kashmir".

(2) For clause (9A) substitute:—

'(9A) "India" means the territory of India excluding the State of Jammu and Kashmir.'

After section 29, insert:—

"30. *Provision for States for which the period prescribed is shorter than that prescribed by any law previously in force in a Part B State.*—Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by any law corresponding to this Act in force in a Part B State and which is repealed by the Part B States (Laws) Act, 1950, may be instituted within the period of two years next after the coming into force of this Act in that Part B State or within the period prescribed for such suit by such corresponding law, whichever period expires first."

The Indian Ports Act, 1908

(XV of 1908)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 3.—Omit clause (10).

The Indian Registration Act, 1908

(XVI of 1908)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—For sub-section (2), substitute the following, namely :—

"(2) It extends to the whole of India except the State of Jammu and Kashmir :

Provided that the State Government may exclude any districts or tracts of country from its operation."

Section 2.—(1) After clause (6), insert :—

'(6A) "India" means the territory of India excluding the State of Jammu and Kashmir.'

(2) Omit clause (11).

Section 33.—(1) In clause (b) of sub-section (1), for "resides in any other part of the States" substitute "resides in any part of India in which this Act is not in force".

(2) After sub-section (1), insert the following *Explanation*, namely :—

'*Explanation.*—In this sub-section, "India" means India, as defined in clause (28) of section 3 of the General Clauses Act, 1897 (X of 1897).'

The Indian Electricity Act, 1910

(IX of 1910)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 35.—For sub-section (1), substitute :—

"(1) The Central Government may, for the whole or any part of the territories to which this Act extends, and each State Government may, for the whole or any part of the State, by notification in the Official Gazette, constitute an Advisory Board."

Section 36A.—In sub-section (2),—

(i) for "thirteen" substitute "twenty";

(ii) for clause (b) substitute :—

"(b) one member to be nominated by the Government of each of the States to which this Act extends".

Section 37.—For "the territories for the time being comprised within Part A States and Part C States or any part of such territories", substitute "the whole or any part of the territories to which this Act extends".

The Indian Patents and Designs Act, 1911

(II of 1911)

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Section 2.—In clause (7)—

(i) in item (b), for "Ajmer" substitute "Ajmer and Vindhya Pradesh";

(ii) in item (c), omit "and Vindhya Pradesh".

Omit section 2A.

After section 79, insert the following as section 80, namely :—

"80. *Repeals and savings.*—(1) If immediately before the 18th day of April, 1950, there was in force in any Part B State to which this Act extends any law corresponding to this Act, that corresponding law shall be deemed to have been repealed on the date aforesaid :

Provided that the repeal shall not affect—

(a) the previous operation of any law so repealed or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not come into force in the Part B State concerned :

Provided further that, subject to the preceding proviso, anything done or any action taken, including any patent, permit or licence granted or registration effected under any such corresponding law shall be deemed to have been done or taken under the corresponding provision of this Act as now extended to that State and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(2) Nothing contained in section 6 of the Part B States (Laws) Act, 1950, shall have effect in relation to this Act."

The Indian Lunacy Act, 1912

(IV of 1912)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—(1) After clause (4) insert (4A) :—

'(4A) "India" means the territory of India excluding the State of Jammu and Kashmir'.

(2) Omit clause (13).

Section 91.—In clause (a) of sub-section (1), omit "for a Part A State".

The Official Trustees Act, 1913

(II of 1913)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—(1) In clause (1) for "Part A State" substitute "Part A State or a Part B State".

(2) In clause (2)—

(i) in item (a), for "Part A State" substitute "Part A State or a Part B State";

(ii) in item (b), for "Ajmer" substitute "Ajmer and Vindhya Pradesh";

(iii) after item (g), insert:—

"(h) in relation to Manipur and Tripura, the High Court of Assam".

The Administrator General's Act, 1913

(III of 1913)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—(1) For clause (3), substitute:—

'(3) "Government" or "the Government" means, in relation to any State, the State Government'.

(2) In clause (12)—

(i) in item (a), for "Part A State" substitute "Part A or a Part B State".

(ii) in item (b), for "Ajmer" substitute "Ajmer and Vindhya Pradesh";

(iii) after item (g), insert:—

"(h) in relation to Manipur and Tripura, the High Court of Assam".

Sections 15 and 16.—For "the Indian Army Act, 1911 (VIII of 1911), or the Indian Air Force Act, 1932 (XIV of 1932)", substitute "the Army and Air Force (Disposal of Private Property) Act, 1950 (XL of 1950)".

Section 17.—(a) For "the Indian Army Act, 1911" and "the Indian Air Force Act, 1932", substitute "the Army and Air Force (Disposal of Private Property) Act, 1950 (XL of 1950)".

(b) For "an Indian commissioned officer" and "Indian Air Force", substitute "a commissioned officer" and "Air Force", respectively.

Section 38.—For "a Part A or a Part C State" substitute "any State to which this Act extends", and for "India or in a Part B State" substitute "India or in the State of Jammu and Kashmir".

Section 57.—For "the territories comprised within Part A States and Part C States", substitute "the territories to which this Act extends".

Section 59A.—Omit sub-section (2).

The Indian Companies Act, 1913

(VII of 1913)

Throughout the Act, unless otherwise expressly provided, for "the States", substitute "India".

Section 1.—In sub-section (3), for "except Part B States" substitute "except the State of Jammu and Kashmir."

Section 2.—(1) After clause (7), insert :—

'(7A) "India" means the territory of India excluding the State of Jammu and Kashmir.'

(2) Omit clause (16A).

After section 2A, insert :—

"2B. *Provisions as to companies registered in Part B States before commencement of Part B States (Laws) Act, 1950.*—Notwithstanding anything contained in this Act or in any other law for the time being in force, a company registered under any law corresponding to this Act in force in a Part B State immediately before the commencement of the Part B States (Laws) Act, 1950, shall be deemed for the purposes of this Act to be a company incorporated and registered under this Act :

Provided that the Central Government may, by notification in the Official Gazette, except any such company from any of the obligations imposed on companies by this Act for such period or periods not exceeding one year in the aggregate as it may think fit."

Section 245.—After sub-section (1), insert :—

'*Explanation.*—In this sub-section "India" includes the State of Jammu and Kashmir'.

The Destructive Insects and Pests Act, 1914

(II of 1914)

Long title.—For "Part A States and Part C States", substitute "India".

Preamble.—For "the territories comprised within Part A States and Part C States (hereinafter in this Act referred to as the said territories)." substitute "India".

Section 1.—Renumber section 1 as sub-section (1) of that section, and after sub-section (1) as so renumbered, insert :—

"(2) It extends to the whole of India except the State of Jammu and Kashmir."

Section 2.—For clause (d), substitute :—

'(d) "India" means the territory of India excluding the State of Jammu and Kashmir.'

Section 3.—In sub-section (1), for "the sand territories" substitute "India".

Section 4C.—(a) For "any Part B State" substitute "the State of Jammu and Kashmir".

(b) For "the said territories", wherever they occur, substitute "India".

(c) For "such Part B State" substitute "the said State".

Section 5A.—For "from the States to a Part B State" substitute "from India to the State of Jammu and Kashmir".

The Indian Copyright Act, 1914 860

(III of 1914)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India."

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir."

Section 2.—(a) After clause (1), insert:—

'(1A) "India" means the territory of India excluding the State of Jammu and Kashmir.'

(b) Omit clause (3).

The Charitable Religious Trusts Act, 1920

(XIV of 1920)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir."

The Indian Red Cross Society Act, 1920

(XV of 1920)

Section 1.—For sub-section (2) substitute:—

"(2) It extends to the whole of India except the State of Jammu and Kashmir, and to the extent to which its provisions relate to any matter in respect of which Parliament has power to make laws for that State, it extends also to that State."

The Indian Passport Act, 1920

(XXXIV of 1920)

Section 1.—In sub-section (2), omit "excluding the State of Hyderabad".

Omit section 6.

The Maintenance Orders Enforcement Act, 1921

(XVIII of 1921)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Long title and preamble.—For "Part A States and Part C States" substitute "India"; and omit "any Part B States or".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—(a) after the definition of "dependants" insert:—

'"India" means the territory of India excluding the State of Jammu and Kashmir;';

(b) omit the definition of "States".

Section 3.—In sub-section (2), omit "or in respect of any Part B State" and "or State".

The Indian Mines Act, 1923

(IV of 1923)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—In clause (i), for "an Act of the Legislature of a Part A State" substitute "a State Act".

The Indian Boilers Act, 1923

(V of 1923)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 27A.—In sub-section (2),—

(a) for "twelve" substitute "nineteen";

(b) in clause (b), for "of each Part A State" substitute "of each Part A State or Part B State".

The Workmen's Compensation Act, 1923

(VIII of 1923)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—In clause (i) of sub-section (1), for "Part A State" substitute "Part A State or Part B State".

Section 15.—In sub-section (4), omit "in Part A States and Part C States".

Section 35.—In sub-section (1),—

(a) omit "to any Part B State or";

(b) for "such State, part of country" substitute "such part or country";

(c) for "a Part A State or Part C State" in both the places where they occur, substitute "any State"; and

(d) omit "in any Part B State".

The Indian Cotton Cess Act, 1923

(XIV of 1923)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—In clause (e), for "the Indian Factories Act, 1911" substitute "the Factories Act, 1948".

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Section 3.—In sub-sections (1) and (2), for "territories comprised within Part A States and Part C States" substitute "territories to which this Act extends".

Section 4.—In clause (i), for "Imperial Council of Agricultural Research" substitute "Indian Council of Agricultural Research".

The Indian Official Secrets Act, 1923

(XIX of 1923)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—For sub-section (2) substitute :—

"(2) It extends to the whole of India and applies also to servants of the Government and to citizens of India outside India."

Section 2.—Omit clause (9A).

The Indian Soldiers (Litigation) Act, 1925

(IV of 1925)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—In clause (b), for "the Indian Army Act, 1911 (VIII of 1911), or the Indian Air Force Act, 1932 (XIV of 1932)" substitute "the Army Act, 1950 (XLVI of 1950), or the Air Force Act, 1950 (XLV of 1950)."

The Cotton Ginning and Pressing Factories Act, 1925

(XII of 1925)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 12.—For "Part A States and Part C States" substitute "the territories to which this Act extends".

The Provident Funds Act, 1925.

(XIX of 1925)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—In sub-clause (i) of clause (f), for "a Part A State or a Part C State" substitute "any part of India".

The Indian Succession Act, 1925

(XXXIX of 1925)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

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Section 2.—(a) after clause (c) insert :—

'(cc) "India" means the territory of India excluding the State of Jammu and Kashmir ;' ;

(b) for clause (g) substitute :—

"(g) "State" includes any division of India having a court of the last resort ;'.

Section 382.—For section 382 substitute :—

"382. *Effect of certificate granted or extended by Indian representative in foreign State and in certain other cases.*—Where a certificate in the form, as nearly as circumstances admit, of Schedule VIII has been granted to a resident within a foreign State by the Indian representative accredited to that State or before the commencement of the Part B State (Laws) Act, 1950, to a resident within a Part B State by a District Judge of that State or where a certificate so granted has been extended in such form by the Indian representative or before the commencement of the said Act by such Judge, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Part have the same effect in India as a certificate granted or extended under this Part."

The Indian Trade Unions Act, 1926

(XVI of 1926)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Legal Practitioners (Fees) Act, 1926

(XXI of 1926)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Indian Bar Councils Act, 1926

(XXXVIII of 1926)

Section 1.—For sub-section (2) substitute :—

"(2) It extends to the whole of India except the State of Jammu and Kashmir, and shall apply to the High Court of every Part A State and of every Part B State other than the State of Jammu and Kashmir, and also to such Judicial Commissioners' Courts in Part C States as the Central Government may, by notification in the Official Gazette, declare to be High Courts to which this Act applies.".

Section 8.—In the proviso to sub-section (4), omit "and King's Counsel shall have pre-audience over all Advocates except the Advocate-General".

The Indian Sale of Goods Act, 1930

(III of 1930)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Indian Lac Cess Act, 1930

(XXIV of 1930)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—Omit "in a Part A State or a Part C State".

The Indian Partnership Act, 1932

(IX of 1932)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 69.—In clause (a) of sub-section (4), for "Part A States and Part C States" substitute "the territories to which this Act extends"; and for "such States" substitute "the said territories".

The Tea Districts Emigrant Labour Act, 1932

(XXII of 1932)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—(a) for clause (c) substitute:—

'(c) recruiting State" means any State other than Assam;';

(b) in clause (f) omit "or in any Part B State"; and for "any part of any Part A State or Part C State" substitute "any part of the territories to which this Act extends".

The Children (Pledging of Labour) Act, 1933

(II of 1933)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Indian Wireless Telegraphy Act, 1933

(XVII of 1933)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

The Indian Dock Labourers Act, 1934

(XIX of 1934)

Section 1.—In sub-section (2), omit "except Part B States".

The Indian Carriage by Air Act, 1934

(XX of 1934)

Section 1.—In sub-section (2), omit "except Part B States".

Sections 2 and 3.—For "Part A States and Part C States" substitute "India".

Second Schedule.—In paragraphs 2 and 4, for "the States" substitute "India".

The Indian Aircraft Act, 1934

(XXII of 1934)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

The Petroleum Act, 1934

(XXX of 1934)

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—(a) for clause (d) substitute:—

'(d) "to transport petroleum" means to move petroleum from one place to another in the territories to which this Act extends, and includes moving from one place to another in the said territories by sea or across territory in India to which this Act does not extend;';

(b) in clause (e), for "the States" substitute "the territories to which this Act extends";

(c) omit clause (i).

The Indian Navy (Discipline) Act, 1934

(XXXIV of 1934)

Section 67.—For "any Part A State or Part C State" substitute "India".

Section 70.—For "a Part A State" substitute "India".

Section 80.—For "Part A States and Part C States" substitute "India".

The Parsi Marriage and Divorce Act, 1936

(III of 1936)

Section 1.—In sub-section (2), for "It extends to the whole of India except Part B States and, in respect of Parsi citizens of India, to the whole of India" substitute "It extends to the whole of India except the State of Jammu and Kashmir".

Section 29.—In sub-section (2) and (3), for "Part A States and Part C States" substitute "the territories to which this Act extends".

The Payment of Wages Act, 1936

(IV of 1936)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Agricultural Produce (Grading and Marking) Act, 1937

(I of 1937)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Arbitration (Protocol and Convention) Act, 1937

(VI of 1937)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—In sub-section (2), omit "except Part B States".

Section 2.—Omit "(1) 'States' means the territories for the time being comprised within Part A States and Part C States; and (2)".

The Manoeuvres, Field Firing and Artillery Practice Act, 1938

(V of 1938)

Section 1.—In sub-section (2), omit "except Part B States".

The Criminal Law Amendment Act, 1938

(XX of 1938)

Section 1.—In sub-section (2), omit "except Part B States".

The Employers' Liability Act, 1938

(XXIV 1938)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Employment of Children Act, 1938

(XXVI 1938)

Section 1.—In sub-section (2), for "except Part B State" substitute "except the State of Jammu and Kashmir".

The Indian Naval Reserve Forces (Discipline) Act, 1939

(Governor-General's Act)

Section 1.—In sub-section (2), omit "except Part B States".

The Standards of Weight Act, 1939

(IX of 1939)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 4.—In sub-section (3), omit "Part B State or".

The Registration of Foreigners Act, 1939

(XVI of 1939)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

Section 2.—Omit clause (aa).

Omit section 9.

The Coal Mines Safety (Stowing) Act, 1939

(XIX of 1939)

Section 1.—For "except Part B States and the States of" substitute "except the State of Jammu and Kashmir".

Section 3.—In sub-section (3), for "in the territories for the time being comprised in Part A States and Part C States" substitute "the territories to which this Act extends".

Section 6.—For "imported into the said territories from any foreign country or brought into the said territories from a Part B State" substitute "imported into the said territories from any place outside the said territories".

The Trade Marks Act, 1940

(V of 1940)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—For "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—(a) for clause (d) substitute:—

'(d) "High Court" means—

(i) in relation to a Part A State or a Part B State, the High Court for that State;

(ii) in relation to Ajmer and Vindhya Pradesh, the High Court at Allahabad;

(iii) in relation to Bhopal, the High Court at Nagpur;

(iv) in relation to Bilaspur, Delhi and Himachal Pradesh, the High Court of Punjab;

(v) in relation to Coorg, the High Court at Madras;

(vi) in relation to Kutch, the High Court at Bombay;

(vii) in relation to Manipur and Tripura, the High Court of Assam; and

(viii) in relation to the Andaman and Nicobar Islands, the High Court at Calcutta;

(dd) "India" means the territory of India excluding the State of Jammu and Kashmir;';

(b) omit clause (kk).

Section 10.—For "and either already on the register or already registered in any Part B State to which section 82A for the time being applies" substitute "and already on the register".

Section 19.—Omit "under this Act or from the register of trade marks in any Part B State to which section 82A for the time being applies".

Section 21.—Omit sub-section (2).

Section 22.—In sub-section (3), omit "or in any Part B State to which section 82A for the time being applies".

Section 23.—Omit "or in any Part B State to which section 82A for the time being applies".

Section 46.—Omit the *Explanation* after sub-section (2).

Section 57.—Omit sub-section (2).

Section 58.—In sub-section (3), omit "or in any Part B State to which section 82A for the time being applies".

Section 68.—(a) in clauses (a) and (c) of sub-section (3), omit "a Part B State or of";

(b) in sub-section (4), omit clause (b).

Omit section 82-A.

Section 84.—In clause (11) of sub-section (2), omit "entered into with a Part B State".

The Arbitration Act, 1940

(X of 1940)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Drugs Act, 1940

(XXIII of 1940)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—(1) After clause (b), insert:—

'(bb) "India" means the territory of India excluding the State of Jammu and Kashmir,'

(2) Omit clause (f).

The Agricultural Produce Cess Act, 1940

(XXVII of 1940)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—In sub-section (1), for "the territories for the time being comprised within Part A States and Part C States" substitute "the territories to which this Act extends".

The Mines Maternity Benefit Act, 1941

(XIX of 1941)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Railways (Local Authorities' Taxation) Act, 1941

(XXV of 1941)

Long title and preamble.—For "Part A State" substitute "State".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Coffee Market Expansion Act, 1942

(VII of 1942)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—(a) after clause (f), insert :—

'(ff) "India" means the territory of India excluding the State of Jammu and Kashmir;';

(b) omit clause (ll).

Section 20.—For "to a Part B State" substitute "to the State of Jammu and Kashmir".

The Weekly Holidays Act, 1942

(XVIII of 1942)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Industrial Statistics Act, 1942

(XIX of 1942)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Reciprocity Act, 1943

(IX of 1943)

Throughout the Act, unless otherwise expressly provided, for "the States" substitute "India".

Long title and preamble.—Omit "certain parts of".

Section 1.—In sub-section (2), omit "except Part B States".

Section 2.—Omit clause (c).

The Indian Coconut Committee Act, 1944

(X of 1944)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—For "the States", where that expression first occurs, substitute "the territories to which this Act extends"; and for that expression where it next occurs, substitute "the said territories".

The Indian Oilseeds Committee Act, 1946

(IX of 1946)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Protective Duties Act, 1946

(XVII of 1946)

Preamble.—For "Part A States and Part C States" where that expression first occurs, substitute "the territories to which this Act extends"; and for that expression where it next occurs, substitute "the said territories".

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—In sub-section (1), for "Part A States and Part C States" substitute "the territories to which this Act extends".

The Industrial Employment (Standing Orders) Act, 1946

(XX of 1946)

Section 1.—For "except Part B States", substitute "except the State of Jammu and Kashmir".

The Mica Mines Labour Welfare Fund Act, 1946

(XXII of 1946)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—In sub-section (1), for "Part A States and Part C States" substitute "the territories to which this Act extends".

Section 4.—In sub-section (1), for "two Advisory Committees, one for the State of Madras and one for the State of Bihar" substitute "as many Advisory Committees as it thinks fit but not exceeding one for each State".

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The Delhi Special Police Establishment Act, 1946

(XXV of 1946)

Long title and preamble.—Omit " in the States ".

Section 1.—In sub-section (2), for " except Part B States " substitute " except the State of Jammu and Kashmir ".

Section 5.—For " Part A States and Part C States " substitute " India ".

Section 6.—(a) for " Part A States and Part C States " substitute " India ".

(b) insert the following *Explanation* at the end :—

' *Explanation.*—In sections 5 and 6 the word " India " means the territory of India excluding the State of Jammu and Kashmir.'

The Foreigners Act, 1946

(XXXI of 1946)

Section 1.—In sub-section (2), omit " except the State of Hyderabad ".

Section 2.—Omit clause (*aa*).

The Prevention of Corruption Act, 1947

(II of 1947)

Section 1.—In sub-section (2), for " except Part B States " substitute " except the State of Jammu and Kashmir ".

Section 6.—For " a Part A State " substitute " a State ".

The Armed Forces (Emergency Duties) Act, 1947

(XV of 1947)

Section 2.—(a) in sub-section (1), for " in a Part A State or a Part C State or, if so requested by the Government of a Part B State, any specified service in that State " substitute " in a State ";

(b) in sub-section (2), for " the Indian Army Act, 1911, or the Indian Air Force Act, 1932 " substitute " the Army Act, 1950, or the Air Force Act, 1950 ".

The Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947

(XVI of 1947)

Section 1.—In sub-section (2), omit " except Part B States ".

The Rubber (Production and Marketing) Act, 1947

(XXIV of 1947)

Throughout the Act, unless otherwise expressly provided, for " the States " substitute " India ".

Section 1.—In sub-section (2), for " except Part B States " substitute " except the State of Jammu and Kashmir ".

Section 3.—(a) after clause (d) insert :—

'(dd) "India" means the territory of India excluding the State of Jammu and Kashmir ;' ;

(b) ommit clause (k).

The Antiquities (Export Control) Act, 1947

(XXXI of 1947)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—In clause (b), for "the territories comprised in Part A States and Part C States" substitute "the territories to which this Act extends".

The Coal Mines Labour Welfare Fund Act, 1947

(XXXII of 1947)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 3.—In sub-section (1), for "Part A States and Part C States" substitute "the territories to which this Act extends".

The Dock Workers (Regulation of Employment) Act, 1948

(IX of 1948)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Minimum Wages Act, 1948

(XI of 1948)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Industrial Finance Corporation Act, 1948

(XV of 1948)

Section 1.—For "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" substitute "except the State of Jammu and Kashmir".

The Atomic Energy Act, 1948

(XXIX of 1948)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The National Cadet Corps Act, 1948

(XXXI of 1948)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

The Employees' State Insurance Act, 1948 873

(XXXIV of 1948)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—For "Factories Act, 1934 (XXV of 1934)" wherever the expression occurs, substitute "Factories Act, 1948 (LXIII of 1948)".

Section 4.—In clause (d), for "Part A States" substitute "Part A States and Part B States to which this Act extends".

Section 10.—In clause (d) of sub-section (1), for "Part A States" substitute "Part A States and Part B States to which this Act extends".

Section 58.—In sub-section (4), for "for a Part A State" substitute "of a State".

Section 98.—For "the Government of a Part B State" substitute "the Government of the State of Jammu and Kashmir"; and for "in the Part B State" substitute "in the said State".

The Mines and Minerals (Regulation and Development) Act, 1948

(LIII of 1948)

Section 1.—In sub-section (2), for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" substitute "except the State of Jammu and Kashmir".

The Electricity (Supply) Act, 1948

(LIV of 1948)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Territorial Army Act, 1948

(LVI of 1948)

Throughout the Act, for "the Indian Army Act, 1911 (VIII of 1911)" substitute "the Indian Army Act, 1950 (XLVI of 1950)".

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

The Exchange of Prisoners Act, 1948

(LVIII of 1948)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

The Central Silk Board Act, 1948

(LXI of 1948)

Section 1.—In sub-section (2), for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" substitute "except the State of Jammu and Kashmir".

The Factories Act, 1948 8-74

(LXIII of 1948)

Section 1.—In sub-section (2), for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" substitute "except the State of Jammu and Kashmir".

The Central Tea Board Act, 1949

(XIII of 1949)

Section 1.—In sub-section (2), for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" substitute "except the State of Jammu and Kashmir".

The Hindu Marriage Validity Act, 1949

(XXI of 1949)

Section 1.—In sub-section (2), for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" substitute "except the State of Jammu and Kashmir".

The Displaced Persons (Legal Proceedings) Act, 1949

(XXV of 1949)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Chartered Accountants Act, 1949

(XXXVIII of 1949)

Section 1.—In sub-section (2), for "except the States of Hyderabad, Jammu and Kashmir, Mysore and Travancore-Cochin" substitute "except the State of Jammu and Kashmir".

The Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949

(XLVI of 1949)

Section 1.—In sub-section (2), for "except the States of Hyderabad, and Jammu and Kashmir" substitute "except the State of Jammu and Kashmir".

The Transfer of Detained Persons Act, 1949

(XLVIII of 1949)

Section 1.—In sub-section (2), for "except the States of Hyderabad, and Jammu and Kashmir" substitute "except the State of Jammu and Kashmir".

The Industrial Disputes (Banking and Insurance Companies) Act, 1949

(LIV of 1949)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

The Explosives (Temporary Provisions) Act, 1949 875

(LV of 1949)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

The Central Reserve Police Force Act, 1949

(LXVI of 1949)

Section 1.—In sub-section (2), omit "except the State of Hyderabad".

ORDINANCES

The Criminal Law Amendment Ordinance, 1944

(XXXVIII of 1944)

Section 1.—For sub-section (2) substitute:—

"(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to citizens of India outside India".

The Currency Ordinance, 1940

(IV of 1940)

Section 1.—In sub-section (2), for "except Part B States" substitute "except the State of Jammu and Kashmir".

Section 2.—For "the territories for the time being comprised within Part A States and Part C States" substitute "the territories to which this Ordinance extends".

The Armed Forces (Special Powers) Ordinance, 1942

(XLI of 1942)

Section 1.—In sub-section (2), omit "except Part B States".

The International Monetary Fund and Bank Ordinance, 1945

(XLVII of 1945)

Section 1.—In sub-section (2), omit "except Part B States".

Section 5.—For "Part A States and Part C States" substitute "India".

The Criminal Law Amendment Ordinance, 1946

(VI of 1946)

Section 1.—For sub-section (2) substitute:—

"(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to citizens of India outside India".

STATEMENT OF OBJECTS AND REASONS

For the purpose of improving the administration of Part B States and for placing them, as far as possible, on a par with Part A States, it is necessary that all the more important Central Acts falling within the Union and Concurrent Lists should be extended to Part B States also. With this end in view,

a number of such Central Acts has already been extended to Part B States generally, or to Part B States except the State of Jammu and Kashmir, as the case may be, according to the legislative competence of Parliament, but a large number of Acts still remains to be similarly extended. Moreover, with the financial integration of Part B States, the Central Government has assumed responsibility for the administration of various subjects in those States, and it is, therefore, a matter of some urgency that the remaining Central Acts requiring to be extended are extended to Part B States as soon as possible.

2. The present Bill is intended to give effect to the above proposal. The Acts and Ordinances listed in the Schedule to this Bill have been prepared in consultation with the administrative departments concerned, and the views of Part B States with regard to the extension of these Acts and Ordinances have also been obtained.

B. R. AMBEDKAR.

NEW DELHI;
The 8th November, 1950.

BILL* No. 84 OF 1950

A Bill to provide for the payment of pensions to retiring Presidents.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the President's Pension Act, 1950.

2. *Pension to retiring Presidents.—There shall be paid to every person who ceases to hold office as President, either by the expiration of his term of office or by resignation of his office, a pension of fifteen thousand rupees per annum for the remainder of his life :*

Provided that, where any such person is re-elected to that office, no pension shall be payable for the period during which he again holds office as President.

3. *Pension to the last Governor-General.— The provisions of section 2 shall apply to the person who held office as the last Governor-General of India as they shall apply to any person who ceases to hold office as President.*

4. *Pensions to be charged on the Consolidated Fund of India.*—Any pension payable under this Act shall be charged on the Consolidated Fund of India.

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STATEMENT OF OBJECTS AND REASONS

Whereas it is desirable that some suitable financial provision should be made for Presidents after their retirement, this Bill is introduced to provide for a pension of Rs. 15,000 per annum, which will be subject to income-tax. The pension will be given to all Presidents after they vacate their office. It will also be allowed to the last Governor-General. The expenditure involved will be a charge on the Consolidated Fund of India.

C. D. DESHMUKH.

NEW DELHI;
The 18th October, 1950.

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* The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

FINANCIAL MEMORANDUM.

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The President's Pension Bill, 1950, contemplates the grant of a pension of Rs. 15,000 per annum subject to income-tax, to all retiring Presidents and also to the last Governor-General for life. The total expenditure in a year will depend on the number of retired Presidents drawing pension at a time and cannot be estimated at present.

2. The last retired Governor-General has intimated that he would not draw any pension in addition to his salary as Minister. No expenditure will thus be involved under clause 3 of the Bill, so long as the last Governor-General continues to be a Minister.

BILL NO. 85 OF 1950.

A Bill to amend the Representation of the People Act, 1950.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Representation of the People (Amendment) Act, 1950.

2. *Amendment of the long title, Act XLIII of* 1950.—In the long title of the Representation of the People Act, 1950 (hereinafter referred to as the said Act), for the words "the allocation of seats in, and the delimitation of constituencies for the purpose of elections to, the House of the People and the Legislatures of States" the words "the allocation of seats in the House of the People and the Legislatures of States, the delimitation of constituencies for the purpose of election of representatives of Part C States to the Council of States and of elections to the House of the People and the Legislatures of States" shall be substituted.

3. *Amendment of Section 2, Act XLIII of* 1950.—In section 2 of the said Act, after clause (*c*) the following clause shall be inserted, namely :—

'(*cc*) "Council of States constituency" means a constituency provided by section 6C or by order made thereunder for the purpose of election of representatives of any Part C State or group of such States to the Council of States ;'.

4. *Insertion of new heading and new sections 6A, 6B, 6C and 6D in Act XLIII of* 1950.—After section 6 of the said Act, the following heading and sections shall be inserted, namely :—

"The Council of States

6A. *Filling of seats in the Council of States allotted to Part C States.*—(*1*) The seat in the Council of States allotted to the States of Manipur and Tripura in the Fourth Schedule to the Constitution shall be filled by a person nominated by the President every second year to represent the State of Manipur and the State of Tripura in rotation :

Provided that a casual vacancy in the seat shall be filled by a person nominated by the President to represent the State which the person by whom the seat was last held represented.

(*2*) The seat or seats in the Council of States allotted to any other Part C State or group of such States in the said Schedule shall be filled by a person or persons elected to represent such State or group of States.

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6B. *Council of States constituencies.*—For the purpose of election of representatives of Part C States to the Council of States, there shall be the constituencies as provided by section 6C or by order made thereunder, and no other constituencies.

6C. *Delimitation of Council of States constituencies.*—(*1*) Each State or group of States to which only one seat is allotted in the Fourth Schedule to the Constitution shall form one constituency :

Provided that for the purpose of election of the representative of the States of Ajmer and Coorg to the Council of States, the constituency shall, where the election is held under section 6D in the State of Ajmer, be deemed to comprise only the State of Ajmer and where the election is held under that section in the State of Coorg, be deemed to comprise only the State of Coorg.

(*2*) As soon as may be after the commencement of this Act, the President shall, after consultation with the Election Commission, by order determine the constituencies into which the State of Vindhya Pradesh shall be divided, the extent of each constituency and the number of seats allotted to each constituency for the purpose of election of representatives of that State to the Council of States.

6D. *Special provision for the filling of the seat in the Council of States allotted to the States of Ajmer and Coorg.*—(1) The seat in the Council of States allotted to the States of Ajmer and Coorg in the Fourth Schedule to the Constitution shall be filled by election held in rotation in the States of Ajmer and Coorg, that is to say, at the first general election and at every second subsequent biennial election the said seat shall be filled by election held in the State of Ajmer and at the first biennial election and at every third subsequent biennial election the said seat shall be filled by election held in the State of Coorg.

(*2*) The casual vacancies in the seat shall be filled by election in the State in which the election to fill the seat was held at the last preceding general or biennial election, as the case may be."

5. *Amendment of section 12, Act XLIII of 1950.*—In section 12 of the said Act, after the word and figure "section 6", the word, figure and letter "section 6C" shall be inserted.

6. *Amendment of section 13, Act XLIII of 1950.*—In section 13 of the said Act—

(*a*) in sub-section (2), after the word and figure "section 6", the figure and letter "6C" shall be inserted ; and

(*b*) in sub-section (3), after the word and figure "section 6", the word, figure and letter "section 6C" shall be inserted.

7. *Amendment of section 16, Act XLIII of 1950.*—In section 16 of the said Act—

(*a*) in clause (*c*) of sub-section (*1*), after the word "corrupt" the words "and illegal" shall be inserted ; and

(*b*) to sub-section (*2*) the following proviso shall be added, namely :—

"Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (*c*) of sub-section (*1*) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal."

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8. *Insertion of new section 22A in Act XLIII of 1950.*—After section 22 of the said Act, the following section shall be inserted, namely :—

"22A. *Special provisions with regard to electoral rolls first prepared under the Act.*—(*1*) Notwithstanding anything contained in the foregoing provisions of this Part the first electoral rolls under this Act shall be prepared in relation to such areas (referred to in this Act as 'electoral units') in each State as the Election Commission may, in consultation with the Government of that State, direct.

(*2*) An electoral roll prepared under sub-section (*1*) shall be published in such manner and at such places as may be prescribed by reference to the electoral unit for which the roll has been prepared for the purpose of inviting claims for inclusion in, or objection to, such roll.

(*3*) For the purpose of the preparation of electoral rolls under sub-section (*1*) and the claims and objections referred to in sub-section (*2*), the provisions of sections 15, 17, 18, 19, 20 and 22 shall have effect as if for any reference to a constituency in the said sections there were substituted a reference to an electoral unit.

(*4*) After the constituencies in a State have been determined under Part II and after the claims and objections in respect of the electoral rolls for all the electoral units or parts thereof comprised in a constituency so determined have been disposed of in accordance with the rules made in that behalf under section 28 and such electoral rolls have been altered in accordance with the decisions given on such claims and objections, the electoral rolls for all such electoral units and parts thereof so altered shall be republished in the manner prescribed as the electoral roll for such constituency and shall, on such republication, be deemed to be the electoral roll prepared under this Act for that constituency."

9. *Insertion of new Part IIIA in Act XLIII of 1950.*—After Part III of the said Act, the following Part shall be inserted, namely :—

"PART IIIA.

QUALIFICATIONS OF ELECTORS FOR COUNCIL OF STATES CONSTITUENCIES AND THEIR REGISTRATION.

25A. *Qualifications for registration.*—Subject to the other provisions of this Part, a person shall be qualified for registration in the electoral roll for a Council of States constituency if he—

(*a*) is on the qualifying date an elected member of any cantonment board, district board, municipal committee, notified area committee, small town committee or village panchayat exercising jurisdiction in any place or area within the limits of that constituency ; or

(*b*) has before the qualifying date passed the matriculation examination of any university in the territory of India or such other examination as the Central Government may, with the concurrence of the Election Commission, by notification in the Official Gazette specify as at least equivalent thereto.

25B. *Conditions of registration.*—No person shall be entitled to be registered in the electoral roll for any Council of States constituency unless he—

(*a*) has been ordinarily resident in that constituency for not less than one hundred and eighty days during the qualifying period, and

(*b*) was not less than twenty-one years of age on the qualifying date.

25C. *Special provisions for the Ajmer-cum-Coorg constituency.*—(*1*) The electoral roll for the Council of States constituency comprising the States of Ajmer and Coorg shall consist of two parts, namely, the Ajmer part and the Coorg part.

(*2*) A person shall be qualified to be registered in the said electoral roll either in the Ajmer part or in the Coorg part, but not in both.

(*3*) For the purpose of registration in the Ajmer part of the said electoral roll the provisions of sections 25A and 25B shall apply as if the constituency comprised only the State of Ajmer; and for the purpose of registration in the Coorg part, the said provisions shall apply as if the constituency comprised only the State of Coorg.

25D. *Preparation of electoral rolls for Council of States constituencies.*—The provisions of sections 15, 16, 17, 18, 20, 21, 22, 23, 24 and 25 shall apply in relation to Council of States constituencies as they apply in relation to Parliamentary constituencies."

10. *Amendment of section 26, Act XLIII of 1950.*—In section 26 of the said Act, after the words and figures "sections 15 to 25", the brackets, words, figures and letter "(including the special provisions contained in section 22A)" shall be inserted.

11. *Amendment of section 28, Act XLIII of 1950.*—In clause (*b*) of sub-section (2) of section 28 of the said Act, the words "in the constituencies to which they relate" shall be omitted.

12. *Repeal of Ordinance XXIX of 1950.*—(*1*) The Representation of the People (Amendment) Ordinance, 1950 (XXIX of 1950) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Act as amended by the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under the said Act as amended by this Act as if this Act were in force on the day on which such thing was done or such action was taken.

STATEMENT OF OBJECTS AND REASONS

Clause (5) of article 80 of the Constitution provides that the representatives of the States specified in Part C of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe. According to the Table of Seats contained in the Fourth Schedule to the Constitution [as amended by the Constitution (Amendment of the First and Fourth Schedules) Order, 1950 issued under article 391], there have to be ten representatives of Part C States in the Council of States, of which four have been allotted to Vindhya Pradesh, one each to Bhopal, Delhi and Kutch, one to Ajmer and Coorg, one to Himachal Pradesh and Bilaspur, and one to Manipur and Tripura. The Bill seeks to amend the Representation of the People Act, 1950, to introduce therein provisions as to the method to be adopted for the choosing of representatives of such States in the Council of States. It is proposed that

the seat allotted to the States of Manipur and Tripura should be filled by a person nominated by the President every second year to represent the State of Manipur and the State of Tripura in rotation. The seats allotted to other Part C States are proposed to be filled by election in territorial constituencies by special electorates constituted for the purpose consisting of elected members of local authorities and persons who have passed the matriculation examination or other equivalent examination. A combined electorate for the States of Ajmer and Coorg which have been allotted only one seat between them will not be satisfactory. A special provision has accordingly been included for filling this seat by rotation by holding election every two years in the State of Ajmer and in the State of Coorg.

The Bill also seeks to enact the provisions of the Representation of the People (Amendment) Ordinance, 1950 which was promulgated on the 17th day of October, 1950. This provides for the preparation of the first electoral rolls in relation to such electoral units in each State as the Election Commission may in consultation with the Government of that State direct, and also for the preliminary publication of the electoral rolls by reference to such electoral units instead of constituencies which have not yet been delimited. It also provides that after each constituency in a State has been determined and the claims and objections in respect of the electoral rolls for all the electoral units or parts of such units as comprised in such constituency have been disposed of, the rolls shall be published as the electoral roll for such constituency. These provisions which are designed to expedite the final preparation of electoral rolls and under which action has already been taken in a number of States require to be confirmed by Parliament.

B. R. AMBEDKAR.

NEW DELHI;
The 16th November, 1950.

BILL* NO. 86 OF 1950

A Bill further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Indian Tariff (Fourth Amendment) Act, 1950.

2. *Insertion of new sections 4A and 4B in Act XXXII of 1934.*—After section 4 of the Indian Tariff Act, 1934 (hereinafter referred to as the said Act), the following sections shall be inserted, namely:—

"4A. *Power of Central Government to levy export duties in certain cases.*—Where in respect of any article not specified in the Second Schedule, the Central Government is satisfied, after such inquiry as it thinks necessary, that an export duty should be levied, there shall be levied and collected in respect of that article, when exported from India, such duty as the Central Government may, by notification in the Official Gazette, specify in this behalf.

* The President has, in pursuance of clause (1) of article 117 of the Constitution of India, recommended to Parliament the introduction of the Bill.

4B. *Power of Central Government to increase export duties in certain cases.*—Notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, by notification in the Official Gazette, increase to such extent as it thinks necessary the duty of customs leviable in respect of any article (whether included in the Second Schedule or not) when exported from India."

3. *Amendment of the Second Schedule, Act XXXII of 1934.*—In the Second Schedule to the said Act,—

(*a*) in Item No. 2,—

(*i*) in the last column of sub-item (i), for the entry "Rs. 50" the entry "Rs. 150" shall be substituted;

(*ii*) in the last column of sub-item (ii), for the entry "Rs. 350", the entry "Rs. 1,500" shall be substituted;

(*b*) in the last column of Item No. 3, for the entry "Rs. 100", the entry "Rs. 400" shall be substituted;

(*c*) after Item No. 3, the following Item shall be inserted, namely :—

"3 (1)	Cotton waste (all sorts)	...	50 per cent *ad valorem*";

(*d*) the following item shall be inserted at the end, namely :—

"12	...	...	30 per cent *ad valorem*"

4. *Export duty not leviable on raw wool in certain cases.*—Notwithstanding anything contained in the said Act, as amended by this Act, no export duty shall be leviable on raw wool which is exported from India within a period of thirty days from the 8th day of November, 1950 under and in accordance with the conditions of a license issued before the said date by competent authority.

5. *Repeals and savings.*—(*1*) The Indian Tariff (Amendment) Ordinance, 1950 (XXX of 1950), and the Indian Tariff (Second Amendment) Ordinance, 1950 (XXXII of 1950), are hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under any of the Ordinances aforesaid shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

(*3*) References in this Act to the Second Schedule to the said Act shall be construed as references to that Schedule as in force immediately before the 21st day of October, 1950.

Declaration under the Provisional Collection of Taxes Act, 1931.

It is hereby declared that it is expedient in the public interest that the provisions of clauses (*a*) and (*b*) of section 3 shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

STATEMENT OF OBJECTS AND REASONS

After the devaluation of the rupee in September, 1949, it had become necessary to impose certain new export duties and enhance some of the existing ones in view of the disparity between Indian and world prices. Powers for this purpose were originally taken by Ordinance No. XXV of 1949. The outbreak of war in Korea and subsequent world events have once again resulted in a wide disparity between the internal prices of some of our export commodities and the prices at which they are sold in overseas markets. In order that this disparity may not inflate the already high level of general prices in India and in order that the maintenance of control over the price of commodities for which maximum prices have been fixed by law is not made difficult by the higher prices offered by foreign buyers, certain new export duties were imposed and some of the existing ones were increased by Ordinances Nos. XXX and XXXII of 1950.

2. The objects of the present Bill are :

(i) to secure the continued levy of the duties on raw wool, raw cotton, cotton waste and hessian, which were imposed by Ordinance No. XXX and Ordinance No. XXXII of 1950 ;

(ii) to enhance further the duty on hessian as subsequent experience has shown it to be not high enough and to increase the existing duty on sacking ; and

(iii) to arm Government with powers to impose similar duties in the case of commodities not already subject to export duties and to enhance them where such duties are already in existence in case emergent circumstances necessitate such a course.

SRI PRAKASA.

NEW DELHI ;
The 18th November, 1950.

M. N. KAUL,
Secretary.

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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

(EXTRAORDINARY)

BANGALORE, MONDAY, DECEMBER 11, 1950.

PART IV

Section 1-C.

NOTIFICATIONS, RULES, ORDERS, Etc., ISSUED UNDER CENTRAL ACTS AND ORDINANCES WHICH APPLY TO MYSORE.

NOTIFICATION.

No. L. D. 2698—Legis. 6-50-61, Bangalore, dated 9th December 1950.

Ordered that the accompanying Notification No. S.R.O. 1000, dated the 2nd December 1950 of the Ministry of Agriculture, fixing the price of Gur published in the *Gazette of India*, Part II, Section 3, dated the 2nd December 1950, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

MINISTRY OF AGRICULTURE

New Delhi, the 2nd December 1950.

S.R.O 1000. In exercise of the powers conferred by Clause 6 of the Sugar and Gur Control Order, 1950, and in supersession of the Notification of the Government of India, Ministry of Agriculture, S. R. O. 790, dated the 26th October, 1950,

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the Central Government is pleased to fix the price specified in column 2 of the Schedule hereto annexed as the maximum price at which gur may be sold or delivered in the State specified in the corresponding entry in column 1 of the said Schedule :

Provided that any authority to whom powers under the said clause are delegated may with the previous approval of the Central Government fix any higher maximum price for any specified area or quality of gur :

THE SCHEDULE.

Name of the State	Maximum price per maund of 82 2/7 lbs.	Name of the State	Maximum price per maund of 82 2/7 lbs.
	Rs.		Rs.
Assam ...	23	Saurashtra ...	23
Bihar ...	19	Travancore and Cochin	22
Madhya Pradesh ...	22	Vindya Pradesh ...	22
Madras ...	19	Ajmer ..	22
Orissa ...	21	Bhopal ...	21
Punjab ...	21	Bilaspur ...	22
Uttar Pradesh ...	19	Coorg ...	23
West Bengal ...	22	Delhi ...	20
Hyderabad ...	21	Himachal Pradesh ...	23
Madhya Bharat ...	22	Kutch ...	23
Mysore ...	22	Manipur ...	23
Pepsu ...	21	Tripura ...	22
Rajasthan ...	22	Andamans and Nicobar Islands ...	23

(No. SV.—130 (1)/50—31.)

N. T. MONE,
Joint Secretary.

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BANGALORE, FRIDAY, DECEMBER 15, 1950

NOTIFICATIONS

No. 12928—C.B. 317-50-1, Dated Bangalore, the 15th December 1950.

As a mark of respect to the memory of the Honourable Sardar Vallabhbhai Patel, Deputy Prime Minister of India, who passed away this morning at Bombay, all Public Offices, Courts, Educational Institutions throughout the State will be closed to-day, the 15th December 1950.

Flags will be kept at half mast on all public buildings.

By Order of His Highness the Maharaja,

K. SRINIVASAN,
Chief Secretary to Government.

No. 4360—Law 316-50-1, Dated Bangalore, the 15th December 1950.

Under the explanation to section 25 of the Negotiable Instruments Act, 1917, Friday, the 15th December 1950 is declared a Public Holiday throughout the State on account of the sad demise of Sri Sardar Vallabhbhai Patel, Deputy Prime Minister of India.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Secretary to Government,
Law Department.

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BANGALORE, SATURDAY, DECEMBER 16, 1950.

NOTIFICATION.

No. 13029—C.B. 317-50-2, dated Bangalore, the 16th December 1950.

Government Notification No. 12928—C. B. 317-50-1, dated 15th December 1950, directing that all Public Offices, Courts, Educational Institutions throughout the State will be closed on the 15th December 1950, as a mark of respect to the memory of the Honourable Sardar Vallabhbhai Patel, Deputy Prime Minister of India, who passed away on the 15th morning at Bombay.

In continuation of the above Notification, all Public Offices, Courts and Educational Institutions throughout the State will be closed to-day also, the 16th December 1950. Flags will be flown half-mast on all public buildings, for seven days from the 15th instant. There will be no public entertainments during this period.

By Order of His Highness the Maharaja,

K. SRINIVASAN,

Chief Secretary to Government.

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(EXTRAORDINARY)

BANGALORE, MONDAY, DECEMBER 18, 1950.

NOTIFICATION.

No. L.D. 2782—L.A. 84-50-1, Bangalore, dated 18th December 1950.

In exercise of the powers conferred by Clause (2) of Article 174 of the Constitution of India, I, Jaya Chamaraja Wadiyar, Maharaja of Mysore, do hereby summon the State Legislative Assembly to meet at 3 P.M. in the Sir K. P. Puttanna Chetty Town Hall at Bangalore, on Wednesday the 17th January 1951.

JAYA CHAMARAJA WADIYAR,
Maharaja of Mysore.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

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